

## Proceedings

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1 would be the equivalent of the Child Protective  
2 Services Bureau.

3 He was -- he interviewed -- or  
4 Detective Shulman, I should say, had interviewed the  
5 complainant in an interview room at the 105th Precinct.

6 At one point at approximately, according to  
7 the detective, 4:45 a.m. he was advised by  
8 Sergeant O'Hagan that the defendant had arrived at the  
9 105th Precinct, that he was there to report his  
10 daughter was missing.

11 The defendant, it would appear to this Court,  
12 was at some point placed in custody prior to  
13 Detective Shulman seeing him at approximately 5:10 in  
14 the morning, according to Detective Shulman, in one of  
15 the interview rooms at the 105th Squad.

16 Prior to going into that room the detective  
17 indicated that he had secured his gun in a desk drawer  
18 where his office was outside of the interview room.

19 He indicated that he came into the interview  
20 room. The defendant had already been placed in that  
21 room by another officer. Detective Shulman indicated  
22 that he introduced himself to him as a detective with  
23 the 105th Precinct and he told him that prior to  
24 speaking to him he would be required to read him what's  
25 referred to as his Miranda warnings.

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1 Detective Shulman indicated that he had  
2 obtained a Miranda -- a preprinted Miranda warning form  
3 from his desk drawer. It's been marked, or a copy of  
4 the one used, was marked as People's Exhibit Number 1  
5 in evidence. It's referred to as a PD 244-149A form.

6 He -- Detective Shulman indicated that he  
7 began to read aloud the questions that were contained  
8 in that form which contained the six rights and  
9 admonitions with regard to a suspect's Miranda  
10 warnings. He read them aloud.

11 After each one -- each warning, if you will,  
12 is followed by a question mark according to the form  
13 that's in evidence. The detective read these -- each  
14 of these warnings and rights to the defendant. He  
15 indicated that the defendant answered yes to each of  
16 them. He indicated that the defendant spoke and  
17 understood the English language.

18 After the defendant answered yes to each of  
19 the six rights or warnings contained in the form.  
20 Detective Shulman had affixed or wrote the word yes  
21 after each question. He then gave the form to the  
22 defendant and -- well, actually, prior to that the  
23 detective had the defendant sign his name, print his  
24 name and Detective Shulman had wrote the location and  
25 date that the Miranda warnings were administered, which

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1        were approximately 5:15 a.m. on June 24, 2008. He gave  
2        the form to the defendant, according to the detective,  
3        indicated to him to read the rights and warnings, asked  
4        if his answers to those questions that had been -- he  
5        had verbally indicated yes to a few moments earlier  
6        were still the same, at which point the defendant,  
7        according to the detective, said yes.

8                He then asked the defendant then to affix his  
9        initials after the word yes on the six different --  
10       after the six different questions that were posed.

11               The defendant then wrote his initials,  
12       according to the -- according to Detective Shulman,  
13       after the words yes six times. As I indicated  
14       previously, the defendant signed his name and the form  
15       itself is signed by Detective Shulman with his -- with  
16       his shield number as well.

17               Subsequently, subsequent to this,  
18       Detective Shulman then indicated that he asked the  
19       defendant to -- if he would be willing to consent to a  
20       search of his motor vehicle which detective indicated  
21       was -- had been -- was at the 105th Precinct parked  
22       outside the 105th Precinct.

23               According to Detective Shulman defendant  
24       indicated that he did -- he would consent to that.

25               Again a preprinted consent search form was

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1 then produced by Detective Shulman. Detective Shulman  
2 then indicated he read from the form, which has been  
3 entered into evidence as People's Number 2, and this is  
4 with respect to his home at 242-10 89th Avenue in  
5 Bellerose, Queens County. He read the form to the  
6 defendant. He then gave the defendant the form to  
7 read.

8 He indicated if the defendant was willing to  
9 consent to that form, to sign in the space provided  
10 which, according to Detective Shulman, the defendant  
11 did affix his signature as the person giving consent.  
12 That form was signed, according to Detective Shulman,  
13 approximately 5:20 a.m. on the morning of June 24th,  
14 2008.

15 According to Detective Shulman, in addition  
16 to the defendant signing or affixing his signature on  
17 the form, it was the defendant that had placed the time  
18 and date on the form itself.

19 The next form that was given to the defendant  
20 or was -- there was a conversation between the  
21 detective and the defendant, was a consent form to  
22 search his vehicle. Again, that is the vehicle that  
23 was parked at the side of the 105th Precinct.

24 The detective went over the consent form,  
25 read the consent form aloud to the defendant.

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1           The defendant indicated to Detective Shulman  
2           that he, likewise with the house, would be willing to  
3           consent to the search of his vehicle. This form was  
4           received in evidence as People's Number 3.

5           According to Detective Shulman, the defendant  
6           signed his name on the form, affixed the date and time  
7           on the form. This form also has the signature of  
8           Detective Shulman as well as a shield number that's on  
9           the form and the form identifies the VIN number as well  
10          as the license plate of the vehicle that the defendant  
11          had driven to the 105th Precinct that morning.

12          After the forms were then signed  
13          Detective Shulman indicated he took a break. He left  
14          the defendant inside the interview room.

15          It bears noting that during this time the  
16          only police personnel that was inside the interview  
17          room with the defendant was Detective Shulman.

18          He indicated he went back --  
19          Detective Shulman indicated he went back and spoke to  
20          the complainant further, who was in another room within  
21          the 105th Squad during this time.

22          At approximately 6:20 a.m. Detective Shulman  
23          re-entered the room where the defendant was located.  
24          During this time or throughout this time he indicated  
25          that the defendant was not handcuffed.

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1           The defendant then -- or the detective,  
2           actually, asked the defendant if he knew what he was  
3           under arrest for and the defendant replied to him that  
4           he had slapped his daughter regarding -- as a result of  
5           a previous argument that he had had with her at an  
6           amusement park, I believe the weekend before.

7           Detective Shulman asked the defendant if he  
8           would be willing to make a written statement concerning  
9           what he had just said. Defendant indicated that he  
10          would.

11          He gave the defendant a -- what would appear  
12          to be, although this is a photocopy, and this is  
13          People's 5 in evidence, a yellow pad, a blank yellow  
14          pad, in which the defendant wrote out his name, his  
15          address, the date, which was June 24th, 2008, the time,  
16          which was approximately 7:30 a.m.

17          According to Detective Shulman the defendant  
18          then -- strike that.

19          Actually, the first -- is there -- this first  
20          statement was actually People's 4 in evidence. The  
21          reference to Number 5 is incorrect. The first  
22          statement that the defendant wrote was People's  
23          Number 4 in evidence.

24          Again, he gave this blank piece of paper to  
25          the defendant. The defendant then wrote out a written

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1 statement in his own words, in his own handwriting, as  
2 to what he had just told Detective Shulman.

3 Indeed, according to Detective Shulman,  
4 defendant had corrected the date initially where it  
5 said Saturday 6/21 or 6/22, the defendant changed that  
6 date.

7 That statement was done at 6:25. As I  
8 indicated, it is approximately a one and one-quarter  
9 page statement on a yellow legal pad.

10 The detective testified that he then  
11 confronted the defendant with allegations that his  
12 stepdaughter had claimed that there was a -- there had  
13 been some inappropriate sexual conduct between him and  
14 his stepdaughter.

15 Prior to that, actually, the defendant was  
16 allowed to use the restroom -- was then handcuffed,  
17 taken to a restroom and then returned back to the  
18 interview room.

19 As I indicated, at approximately 7:25 a.m.  
20 the detective went back into the interview room and sat  
21 across from the defendant in the interview room and  
22 that -- indicated to the defendant that the  
23 stepdaughter had made allegations of an inappropriate  
24 nature.

25 Detective Shulman wouldn't indicate to the

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1 defendant the details of the allegations that were  
2 being made at that time by the stepdaughter in a  
3 separate room.

4 He then asked if he would like to make a  
5 second statement. According to Detective Shulman the  
6 defendant stated that he felt bad about it and would  
7 like to make a statement.

8 Again the defendant was offered a blank  
9 yellow pad and a piece -- and a pen at which time the  
10 defendant then, in his own handwriting, wrote a second  
11 statement - and, again, this is now People's 5 in  
12 evidence - dated June 24th, 2008, the time is  
13 approximately 7:30 a.m., in which the defendant then  
14 wrote a second statement in response to the allegations  
15 that had been made by the complainant as told to him by  
16 the detective.

17 On both of these statements the defendant's  
18 signature appears on the statement, the date and time.

19 The second statement was -- it appears was  
20 begun at 7:30 a.m. and was completed, according to the  
21 bottom portion, at 8:30, approximately one hour later.

22 Both statements bear the defendant's  
23 signature as well as Detective Shulman's signature as  
24 well.

25 During the course of this period of time



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1 Detective Shulman testified that no threats or force or  
2 promises of leniency were made to the defendant, that  
3 he did not have his weapon with him.

4 According to Detective Shulman, he was the  
5 only one present in the interview room during the  
6 course of these two statements. In both instances,  
7 according to Detective Shulman, the defendant was  
8 offered the opportunity to read the statements after he  
9 wrote them out and asked if he wanted to make any  
10 changes that he could. According to Detective Shulman,  
11 the defendant did not make any changes.

12 Throughout the course of these two statements  
13 Detective Shulman indicated that the defendant at no  
14 time wished to invoke his right to remain silent or to  
15 speak with a lawyer.

16 At one point during the course of the  
17 interview after these statements the defendant was  
18 asked by Detective Shulman if he had any vibrators in  
19 his car. According to the detective, defendant said he  
20 had a body massager in the car and a vibrator in the  
21 house.

22 At that point -- just off the record one  
23 moment.

24 (Discussion held off the record.)

25 THE COURT: According to Detective Shulman,

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1 after speaking to the defendant as to his possession of  
2 any vibrators, Detective Shulman indicated that --  
3 Detective Shulman then wrote down -- as opposed to the  
4 two other statements, Detective Shulman then wrote down  
5 his question to the defendant and the defendant's  
6 answer, it's in Detective Shulman's handwriting, in  
7 which the defendant indicated to him that there were  
8 multiple vibrators in the house. They are white and  
9 looked the same, they are in a cabinet in the bedroom  
10 in the house, and he has a white fold-up massager in  
11 the car that he uses for his neck. He claims to have  
12 never have used it on his daughter.

13 That oral conversation was reduced to writing  
14 by Detective Shulman. There's also -- and this is,  
15 again, People's 6 in evidence that was introduced  
16 during the hearing.

17 According to Detective Shulman, the defendant  
18 then drew a picture in his own handwriting of what  
19 appears -- what appeared to Detective Shulman to be the  
20 vibrator that the defendant was referring to in terms  
21 of its dimension and its shape.

22 After this had taken place, according to  
23 Detective Shulman, he then spoke to Police Officer  
24 Alfaro who told her that there was some, what he  
25 believed to be, items of evidence in the home and in

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1 the defendant's car that was pertinent and related to  
2 this case.

3 Detective Shulman then contacted the DA's  
4 Office. He had asked the defendant if he would be  
5 willing to make a videotaped statement. That statement  
6 was introduced into evidence as People's Exhibit 7.

7 The videotaped statement was played for the  
8 jury. The video -- for the Court. The videotaped  
9 statement was played for the Court. The videotaped  
10 statement was taken at the Queens -- at the  
11 105th Precinct in a different room than that which the  
12 defendant was -- had been questioned by Detective  
13 Shulman.

14 The videotaped statement that was entered  
15 into evidence both audibly and visually depicted two  
16 Assistant District Attorneys from Queens, the  
17 defendant, the videographer and Detective Shulman in  
18 the -- in this second interview room.

19 Preliminarily, the defendant's Miranda  
20 warnings were then administered to him at now a second  
21 time by one of the Assistant DAS on the videotape.

22 On the videotape the defendant is clearly  
23 seen to be acknowledging his Miranda warnings, waiving  
24 his rights with respect to his Miranda warnings and  
25 affixing his initials similarly to the way he did in

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1 front of -- with Detective Shulman after the  
2 Assistant DA wrote the words yes to each of the six  
3 questions that were posed to him.

4 During the course of the videotaped statement  
5 the defendant did not indicate that he wished to no  
6 longer give a statement or speak to a lawyer or, for  
7 that matter, invoke his right to remain silent. In the  
8 videotaped statement the defendant is shown without  
9 handcuffs in the interview room.

10 After the videotaped statement was played  
11 defendant was then brought -- brought, I should say, for  
12 booking at central booking in Queens.

13 In looking at the videotaped statement it  
14 appeared to be done on the afternoon, late afternoon,  
15 of June 24th, 2008, somewhere between the hours, I  
16 believe, of 4 and 5 in the afternoon. The videotaped  
17 statement is approximately 30 to 40 minutes in length.

18 Detective Alfaro from the 105th precinct  
19 testified that she was -- worked a tour of duty on  
20 June 24th, 2009 from 11:15 to 5:40 p.m. -- 11:15 a.m.  
21 to 5:40 p.m.; that she was asked if she wanted an  
22 arrest -- she was asked by one of her supervisors if  
23 she wanted an arrest, which she agreed to; that  
24 Detective Shulman had then directed her to process the  
25 arrest.

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1           She assisted in the processing of the arrest,  
2           including the interviewing -- some interviewing of the  
3           complainant and doing an online booking paperwork.

4           According to Police Officer Alfaro she took  
5           the defendant downstairs from the upstairs area where  
6           defendant had been in the squad room with  
7           Detective Shulman. He was brought downstairs  
8           handcuffed where his arrest was processing.

9           He was then placed in a cell area behind the  
10          front desk of the 105th Precinct where pedigree  
11          information was taken from him.

12          According to Officer Alfaro, her weapon was  
13          locked in a locked area throughout this time.

14          During the course of her interaction with the  
15          defendant, which was now in the early morning or  
16          mid-morning hours of June 24th, the defendant did not  
17          make any complaints of pain or request any medical  
18          attention.

19          While officer Alfaro was with the defendant  
20          the defendant did not interact with any other police  
21          officers she did not see any other police officers go  
22          into the cell after the defendant was placed in the  
23          cell by Officer Alfaro.

24          At one point she was asked by  
25          Detective Shulman to take the complainant in this case

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1 to the vehicle where -- that the defendant had brought  
2 to the 105th Precinct in an effort to secure certain  
3 property that was, according to the defendant, located  
4 in the car. This was an Ecolab truck that the  
5 defendant used for work purposes that was parked next  
6 to the 105th Precinct.

7 According to Officer Alfaro, the complaining  
8 witness took her to a vehicle and directed her to a  
9 compartment inside the vehicle, I believe, where a meat  
10 cleaver was recovered as well as a white massager.

11 Those items of property were then invoiced  
12 and vouchers were prepared and also Officer Alfaro went  
13 to the defendant's home on June 24th, 2008 where she, I  
14 believe, met the mother of the complainant, the wife of  
15 the defendant, at 242-10 89th Avenue in Queens and  
16 indicated to her to search the home. Officer Alfaro  
17 indicated she had the consent search form which had  
18 previously been signed by defendant with her.

19 She indicated defendant's wife allowed her  
20 inside the home and that a search was done of the  
21 master bedroom in the home that the defendant shared  
22 with his wife and according to Officer Alfaro she  
23 recovered a white and gray massager that was under the  
24 bed in the defendant's master bedroom.

25 The defendant himself testified in this

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1 hearing. He indicated that he's 51 years of age,  
2 worked as an Ecolab worker involved in pest  
3 elimination. He testified that he had no injuries  
4 prior to June 24th, 2008. He made reference to a prior  
5 hernia operation.

6 He testified that he had last eaten on June  
7 22nd, 2008, which, I believe, was a Sunday, and worked  
8 the entire day on Monday day and at approximately 1:45  
9 a.m. on June 24th, 2008 he noticed that his daughter  
10 was not -- the complainant in this case was not home,  
11 noticed the back door unlocked, thought that his  
12 daughter had ran away or was missing, drove to the  
13 105th Precinct at approximately 2:30 a.m.

14 He indicated that when he went into the  
15 precinct he was met by an officer and he told that  
16 officer he came to report his daughter was missing.

17 He indicated that nine or ten officers  
18 surrounded him, that they then began to grab him by his  
19 hand or his arm and slammed him into a wall, that  
20 officers were -- surrounding officers were shouting for  
21 another officer to cuff him, put a cuff on him. He  
22 indicated that officers were pushing him, grabbing him,  
23 in essence, physically throwing him around.

24 He indicated at some point that he began to  
25 ask if he could be allowed to have a phone call for his

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1 wife. He was told that he was not going to get a phone  
2 call, that he was then eventually handcuffed and pushed  
3 up a flight of stairs by Detective Shulman, taken to a  
4 location, the interview room that he referred to as the  
5 box.

6 He indicated that Detective Shulman  
7 initially, when entering the room, grabbed him by his  
8 collar and pushed and pulled him around throughout the  
9 course of this, using language that he described as  
10 foul.

11 He indicated that he was never advised of his  
12 Miranda rights.

13 He indicated at one point  
14 Detective Shulman came in with papers saying that it  
15 contained statements by his daughter accusing him of  
16 inappropriate sexual activity.

17 The detective said, "You want me to tell --  
18 you want to tell me anything else?"

19 Defendant requested he wanted to speak to his  
20 wife and, alternatively, a lawyer. Detective Shulman  
21 indicated he was not going to get either.

22 He indicated that the Miranda sheet that's  
23 been entered into evidence had the words yes already  
24 written on it, that the detective had made threats for  
25 him to place initials on it, that the detective came



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1 back with the notepad, pen and paper.

2 The defendant wrote what had occurred at the  
3 fair. He acknowledged writing what occurred at the  
4 fair.

5 Detective Shulman told him that he was going  
6 to be put away for a long time, made him sign a  
7 confession that he abused his daughter. He told --  
8 according to the defendant, Detective Shulman told him  
9 that he was going to take it to his supervisor and that  
10 once he does that that he would be going home soon.

11 The defendant also said that the detective  
12 asked him to do a videotape. He said he kept on asking  
13 for a lawyer, was denied access to a lawyer, denied  
14 access to a phone call. He said that after he signed  
15 his Miranda rights for the DA he would then be going  
16 home.

17 He says he did not, was deprived of sleep  
18 from Sunday through Tuesday afternoon with the  
19 exception of a bottle of water given to him by the DA  
20 during the course of the videotape, that he had nothing  
21 to eat or sleep for approximately 15 hours.

22 Upon his release from jail after being  
23 arraigned he went to his attorney's office and then  
24 thereafter went to Long Island Jewish Hospital on  
25 June 26th, 2008 for treatment of his injuries.

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1 He introduced photographs in evidence,  
2 People's G through J that he indicates --

3 MR SCHECHTER: Defendant's G through J. I  
4 think you said People.

5 THE COURT: Defendant's G through J,  
6 indicating what he described as injuries that were  
7 inflicted -- or healing injuries that were inflicted at  
8 the hands of the police officers at the 105th Precinct  
9 as well as the hospital records from Long Island Jewish  
10 that were entered into evidence in which he complained  
11 of pain, body aches, abdominal pain that he, according  
12 to the records, indicated -- was inflicted at the hands  
13 of the police officers.

14 I should also indicate that the defendant  
15 also introduced photographs into evidence depicting the  
16 outside of the 105th Precinct, C,D,E and F in evidence,  
17 as well as the interrogation area that was acknowledged  
18 by Detective Shulman as the location where the  
19 interviewing of the defendant took place.

20 The Court makes the following conclusions of  
21 law:

22 With respect to the Huntley issues, as I  
23 indicated, the Court does credit the testimony of the  
24 police officers, Detective Shulman in this particular  
25 case.

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1           The Court finds that in the first instance  
2           that the statements were voluntarily given under oath,  
3           CPL 60.45, that these statements were voluntarily made,  
4           that the defendant made a knowing, intelligent and -- a  
5           knowing, intelligent and voluntary waiver of his  
6           Miranda rights both prior to giving the written  
7           statements to the police officer, or the detective, I  
8           should say.

9           Court also finds that the People have met  
10          their burden with respect to the consent searches that  
11          were executed by the defendant; that based on the  
12          totality of the circumstances here that these consent  
13          searches -- or consent forms allowing the search of  
14          both his vehicle and his home, again, were voluntarily  
15          made after the defendant was advised orally by  
16          Detective Shulman of his rights and with respect to  
17          both of these consent searches, as well as being given  
18          the opportunity to read both of these consent search  
19          forms prior to signing them, and therefore the property  
20          that was recovered, both in the car and the home, as a  
21          result of these search forms was properly obtained.

22          Insofar as the statements are concerned,  
23          Court finds that contrary to the defendant's  
24          assertions -- primarily when viewing the videotape that  
25          was seen by the Court in this case, the Court,

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1 notwithstanding the defendant's assertions in this  
2 case, would credit the evidence that was presented  
3 during the course of this case to the degree that the  
4 People, in this Court's view, have satisfied beyond a  
5 reasonable doubt that these statements were voluntarily  
6 made and that they were the product of knowing,  
7 intelligent and voluntary waivers of the defendant's  
8 Miranda rights and, accordingly, the defendant's motion  
9 to suppress both the statements -- written statements,  
10 videotaped statements, as well as any other evidence  
11 that was recovered is hereby denied.

12 MR SCHECHTER: Respectfully except.

13 THE COURT: Yes.

14 MR SCHECHTER: Question, your Honor?

15 With respect to the videotape, is the Court  
16 making a determination that the warnings given ab  
17 initio by the detective were the warnings that were  
18 allocable, the Miranda warnings, allocable to my  
19 client's statement or is the Court determining that the  
20 verbal warnings given by, I believe, either the  
21 District Attorney at the video statement, that those  
22 were, in fact, the proper Miranda warnings because no  
23 waiver -- notwithstanding a waiver form was signed on  
24 the videotape, there was none that was put into  
25 evidence.

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1           So I would like to know which Miranda waiver  
2           the Court is determining with respect to the videotape  
3           and its admissibility.

4           THE COURT: Well, at a minimum, I think that  
5           the Miranda warning that was executed by the defendant  
6           during his interaction with Detective Shulman clearly  
7           applied not only to the written statements, but later  
8           to the videotaped statement.

9           There was no evidence in the record to  
10          suggest that there was any invocation by your client or  
11          by the defendant of his right to remain silent or his  
12          right to speak with an attorney at any point in time  
13          during the course of his interaction with the police.  
14          Although the -- and I would say that applies to the  
15          videotaped statement as well.

16          I would just also add that I think an  
17          inference secondarily could be drawn from the  
18          videotaped statement that it would appear from --  
19          although the form wasn't introduced, that the defendant  
20          was advised of his Miranda warnings a second time  
21          during the course of that videotape and that clearly in  
22          that instance he also made an intelligent, knowing and  
23          voluntary waiver of his rights during the prior --  
24          immediately prior to the videotape.

25          MR SCHECHTER: The oral administration of the

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1 rights.

2 THE COURT: Yes.

3 All right, obviously I went a little bit  
4 longer than I anticipated. I'm going to ask everybody  
5 to come back at 2:30. I would ask you to come here. I  
6 don't even know, as I sit here now, whether or not --  
7 we can't be here to begin jury selection. We're going  
8 to have to be somewhere else. I don't know where that  
9 is.

10 THE CLERK: Judge Sullivan.

11 THE COURT: My clerk is telling me we're  
12 going to be right down the hall in Judge Sullivan.  
13 He's on the courtroom on the left. Report there at  
14 2:30.

15 MR SCHECHTER: Should we leave our stuff or  
16 take it?

17 THE COURT: Take it. We won't be here this  
18 afternoon.

19 MS. JOHNSON: I'll have a witness list at  
20 2 o'clock for the prospective panel.

21 (The luncheon recess was taken at this time.)

22 \* \* \* \*

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## I N D E X

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>People's Witnesses:</u>				
1. Det. Leonard Schulman	22/ 96	175/ 255	230	231
2. P.O. Celica Alfaro	239	252	272	272

Defendant's Witnesses:

1. Harold Gopaul	276	305	338
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## E X H I B I T S

	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>People's Exhibits:</u>		
1. Miranda warnings	33	36
2. Consent to search home	45	47
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS : CRIMINAL TERM : PART K-12

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

Indictment No.  
2065-2008

-against-

Hearing

HAROLD GOPAUL,

Defendant.  
-----X

Supreme Courthouse  
125-01 Queens Boulevard  
Kew Gardens, New York 11415  
June 8, 2009

B E F O R E:

HONORABLE JOSEPH A. GROSSO,  
Justice of the Supreme Court.

A P P E A R A N C E S:

FOR THE PEOPLE:

RICHARD A. BROWN, ESQ.  
District Attorney, Queens County  
BY: JARED ROSENBLATT, ESQ.  
Assistant District Attorney

FOR THE DEFENDANT:

DONALD SCHECHTER, ESQ.  
80-02 Kew Gardens Road  
Kew Gardens, New York 11415

HELEN BOUKAS  
Senior Court Reporter



1 COURT OFFICER: Coming out.

2 (Defendant is present.)

3 THE CLERK: 6 on the calendar. 2065 of '08.

4 Harold Gopaul.

5 MR. SCHECHTER: For Harold Gopaul, Donald R.

6 Schechter, 80-02 Kew Gardens Road, Kew Gardens, New

7 York.

8 THE COURT: Sir, good morning.

9 MR. ROSENBLATT: For the People, Assistant

10 District Attorney, Jared Rosenblatt.

11 THE COURT: Sir, good morning.

12 MR. ROSENBLATT: Good morning, your Honor.

13 THE COURT: Okay. We conferenced this case.

14 Mr. Rosenblatt, do you have an application

15 before we start this hearing?

16 MR. ROSENBLATT: Yes, your Honor, I have.

17 MR. SCHECHTER: Your Honor, before that, I

18 respectfully ask, with respect to bail condition, that

19 my client be put on one-dollar bail, his bail be

20 exonerated, that one-dollar bail be instituted. He is

21 here from Nassau on a writ.

22 MR. ROSENBLATT: Your Honor, his bail is three

23 hundred thousand over one hundred fifty. I ask that he

24 be remanded in this case. He has been convicted of

25 seven counts of criminal sex act in Nassau County.

1 THE COURT: He should be remanded in Nassau  
2 County, and I am not going to change the bail here. I  
3 am simply not going to do it for the following reason.

4 A dollar bail is, in my opinion, only  
5 appropriate where I would intend to R.O.R. somebody on  
6 the charges that I have in front of me.

7 This is one of those cases, given the volume  
8 of fifty plus charges in an indictment that I don't  
9 believe the reduction of bail to one dollar be  
10 appropriate under those circumstances.

11 So I am keeping the bail where it is. And I  
12 am not going to remand. I will keep the bail where it  
13 is with the understanding that the defendant had been  
14 remanded post conviction in Nassau County.

15 So the bail is not going to be exonerated. I  
16 will not set the dollar bail. He will receive credit on  
17 this case, on the 300 over the 150. It's that simple.

18 MR. SCHECHTER: Okay.

19 THE COURT: Because -- I won't change the bail  
20 because, simply, I simply don't know what would happen  
21 in Nassau County, whether or not your client -- I  
22 understand that he was convicted of D violent felonies  
23 in Nassau County.

24 The sentence range there goes anywhere from  
25 time served and probation to a six-month split sentence

1 to a definite period of incarceration of one year, City  
2 time, or up to seven years' incarceration on a violent  
3 felony offense on each count.

4 MR. SCHECHTER: He's facing seven counts,  
5 seven separate counts, seven years each in Nassau County  
6 which could theoretically amount to 49 years in prison.

7 THE COURT: Indeed, but I don't know what the  
8 sentencing Judge is going to impose. And until that's  
9 known, I don't know if it's -- Is it likely that he  
10 would receive a probationary sentence?

11 I've been around the block once or twice; the  
12 answer is no. I don't think that's likely. I don't  
13 think that that would be likely. But I don't know. And  
14 until I do, I am not changing the bail status at all.  
15 Simple as that.

16 Next point?

17 MR. ROSENBLATT: Your Honor, the case is on  
18 for hearings today, and I'm asking the Court to adjourn  
19 this case to a trial part because all of the issues in  
20 this case in regards to the Mapp and in regards to the  
21 Huntley have already been heard in Nassau County Supreme  
22 Court before Justice McCormack. The same exact issues  
23 apply.

24 Therefore, the doctrine of estoppel should be  
25 applied in this case. We can't relitigate the same

1 issues twice, and I would ask this case to be adjourned  
2 to a trial part.

3 MR. SCHECHTER: May it please the Court?

4 THE COURT: Absolutely, sir.

5 MR. SCHECHTER: With respect to the submitted,  
6 we are entitled to a hearing and, namely, Mapp Hearing  
7 and Huntley Hearing in this matter, because the charges  
8 are much different here.

9 The charge is a B felony here, for which my  
10 client can receive up to 25 years. And theoretically,  
11 25 years times 58 counts is an inordinate amount of jail  
12 time. It's consecutive with Nassau County.

13 However, that fact said, the parties are not  
14 the same. Mr. Rosenblatt was not the Assistant District  
15 Attorney. I wasn't the attorney representing Mr. Gopaul  
16 in that matter. The Court and Judge in Nassau County  
17 heard those issues.

18 I respectfully submit that collateral estoppel  
19 does not apply here. Nor does any res adjudicata apply  
20 here with respect to these issues.

21 I believe the Court is not foreclosed from  
22 rehearing them. I think that since there is B felonies  
23 here, that they are not the same parties here, that the  
24 rudiments of collateral estoppel have not been made out  
25 nor was res adjudicata made out. If res adjudicata was

1 made out we would not try this case here.

2 THE COURT: Absolutely, I agree with that  
3 proposition.

4 With respect to collateral estoppel, though, I  
5 disagree. Collateral estoppel deals with the identity  
6 of issues. Not the identity of charges.

7 Clearly you have two separate jurisdictions so  
8 people are going to be different.

9 But I have reviewed the decision by Judge  
10 McCormack in Nassau County, and it appears from what was  
11 represented to me that there is an identity of issues  
12 that were fully and fairly litigated before a Judge of  
13 collateral jurisdiction. That Judge determined that the  
14 admissibility of evidence was to be permitted in the  
15 Nassau County trial.

16 I take note that the witnesses who testified  
17 were police officers or detectives from Queens County as  
18 well as the so-called Central Booking interview taken  
19 here in Queens County.

20 In my opinion, the doctrine of collateral  
21 estoppel was satisfied by the full litigation of the  
22 identical issues in Nassau County.

23 There is no need for a hearing in my opinion  
24 in this case on the issues that were already previously  
25 litigated by the Nassau County Judge. So --

1 MR. SCHECHTER: We are dealing here, so the  
2 record is clear, with Huntley issues, we are dealing  
3 with Mapp issues.

4 THE COURT: Yes, sir.

5 MR. SCHECHTER: And those related cases that  
6 relate to voluntariness, we are dealing with all those  
7 issues.

8 THE COURT: Those issues were, from what I  
9 read in the Judge's decision, the issues were fully  
10 litigated in Nassau County.

11 This case is now in a trial posture, unless  
12 there is an offer that's too good to be refused today.

13 MR. SCHECHTER: The District Attorney has  
14 communicated to me that, if my client were so disposed  
15 to take a plea, he would receive, I believe, five years  
16 straight time concurrent with the time my client is to  
17 receive if any in Nassau County.

18 I have communicated the offer to my client.  
19 My client, although not having rejected the offer, does  
20 wish the Court and the District Attorney to allow us  
21 sufficient time to think about it.

22 We're scheduled for sentence, according to my  
23 records, June 15th in Nassau County.

24 I therefore respectfully ask this matter be  
25 put on for the next occasion either for trial or

1 disposition, and that would be in the middle of July.

2 MR. ROSENBLATT: Judge, my recommendation of  
3 concurrent time ends today.

4 MR. SCHECHTER: May I have a moment?

5 (Whereupon, defendant and defense attorney  
6 confer off the record.)

7 THE COURT: Mr. Schechter and Mr. Rosenblatt,  
8 I do have to exonerate the old bail because bail was  
9 posted in this case.

10 I am exonerating the old, resetting it to  
11 three hundred thousand over one hundred fifty thousand  
12 dollars.

13 Let me see if there are any endorsements with  
14 respect to bail sufficiency. No, there are not.

15 I am exonerating the old and resetting the  
16 amount. This case goes to TAP-A.

17 MR. SCHECHTER: TAP-A?

18 THE COURT: Yes. It will be referred from  
19 TAP-A out for trial.

20 MR. SCHECHTER: Today?

21 THE COURT: It will go to TAP A on whatever  
22 date is picked. That would be a trial date.

23 MR. SCHECHTER: May I have a moment?

24 (Whereupon, defendant and defense attorney  
25 confer off the record.)

1 MR. SCHECHTER: Your Honor, my client has  
2 respectfully asked if I would ask the District Attorney  
3 to please hold that offer open so that he can at least  
4 be sentenced in Nassau County.

5 We are not going to lose anything on the next  
6 date simply because if we don't take the disposition we  
7 would be prepared to go forward with the trial.

8 MR. ROSENBLATT: Judge, I am offering no  
9 courtesies to this defendant. This complaining witness  
10 has testified in two Grand Juries and at a trial. There  
11 are no courtesies to be offered to him.

12 (Whereupon, defendant and defense attorney  
13 confer off the record.)

14 THE COURT: What's a good trial date, please?  
15 That's it. What's a good trial date?

16 MR. SCHECHTER: How about July 13th which is a  
17 Monday?

18 THE COURT: Good.

19 MR. ROSENBLATT: The 20th --

20 MR. SCHECHTER: 20th?

21 MR. ROSENBLATT: -- is a better date.

22 MR. SCHECHTER: 20th is fine.

23 THE COURT: 7/20, TAP-A. Mark your case for  
24 trial.

25 Mr. Rosenblatt, the minutes of the hearing, I



1 am returning to you, sir.

2 We are done. Take charge.

3 MR. ROSENBLATT: Thank you, your Honor.

4 \*\*\*\*\*

5 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF THE  
6 ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS PROCEEDING.

7 

8 HELEN BOUKAS

9 Senior Court Reporter

CA#

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copy

1 SUPREME COURT OF THE STATE OF NEW YORK.

2 COUNTY OF QUEENS: CRIMINAL TERM: PART TAP-D

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK : Indictment  
: No. 2065/08

5 -against-

6 HAROLD GOPAUL,

7 Defendant. : CRM SX ACT 1

8 -----X JURY TRIAL

9  
10 125-01 Queens Boulevard  
11 Kew Gardens, New York  
12 July 6, 7, 8, 9, 2010

13 B e f o r e:

14 HONORABLE GREGORY L. LASAK,  
15 Supreme Court Justice

16 A p p e a r a n c e s:

17 HONORABLE RICHARD A. BROWN  
18 District Attorney, Queens County  
19 BY: JARED ROSENBLATT, ESQ.

20 STANFORD BANDELLI, ESQ.  
21 Attorney for Defendant  
22 16 Court Street  
23 Brooklyn, New York

24 \*

25 SHERYL FITZPATRICK, RPR CSR  
Official Court Reporter

## Proceedings

1 THE CLERK: Added on the calendar, Indictment 2065  
2 of 2008, People versus Harold Gopaul.

3 Let the record reflect the defendant is before the  
4 Court.

5 Counsel, your appearances.

6 MR. BANDELLI: Stanford Bandelli, 16 Court Street,  
7 Brooklyn, New York.

8 THE COURT: Good afternoon, Mr. Bandelli.

9 MR. ROSENBLATT: For the People Assistant District  
10 Attorney Jared Rosenblatt.

11 THE COURT: Is the Defendant ready for trial?

12 MR. BANDELLI: There are several applications I  
13 need to make before we get started, but after that I don't  
14 see why not.

15 THE COURT: What are your applications?

16 MR. BANDELLI: Well, first off there was a  
17 subpoena that I served several months ago on ACS or CPS  
18 Administration for Children's Services. I know that the  
19 Court had received the paperwork because I received  
20 correspondence from legal counsel, but I never received any  
21 of the paperwork that was provided to the Court.

22 I believe some of that -- at least some of that  
23 paperwork contains statements taken from the People's  
24 witnesses in this case because on the police reports that  
25 were previously provided it indicates that the complainant

## Proceedings

1 was interviewed by ACS. So, the CPL authorizes me to have  
2 access to that paperwork, and I'm more than happy to take it  
3 down, Judge.

4 THE COURT: What do you know about this?

5 MR. ROSENBLATT: That's the first I've heard of a  
6 subpoena, Judge. I believe it was served ex parte. I  
7 anticipate in the material that I will turn over to the  
8 defense for it to contain some records from ACS. I don't  
9 know what was done ex parte, but I can certainly assure the  
10 Court that there are records that will be turned over as  
11 part of my obligations.

12 THE COURT: Where did this come from? Judge  
13 Buchter?

14 MR. ROSENBLATT: No. Judge Kron.

15 MR. BANDELLI: Judge Buchter actually issued the  
16 subpoena, but it moved to Judge Kron afterwards.

17 THE COURT: I'll see if that paperwork is in the  
18 courthouse.

19 What is your next application?

20 MR. BANDELLI: The next application is I haven't  
21 received any Rosario material from the district attorney.  
22 This case is quite old. There have been several lawyers  
23 that appeared on behalf of Mr. Gopaul before I was retained.  
24 I came in in October of 2009, and initially Mr. Rosenblatt  
25 was, I guess, reluctant to turn over the paperwork because

## Proceedings

1 he had given it to the other lawyers, and the reality is we  
2 were hoping that maybe we could resolve this with a  
3 disposition. That has not come to pass. So, I haven't  
4 gotten anything from the ADA.

5 MR. ROSENBLATT: I have a slightly different  
6 version of events. The defendant was tried in Nassau for  
7 acts on the same complaining witness, Judge, and everything  
8 was turned over to prior counsel in Nassau. I informed  
9 Mr. Bandelli to let me know what he had and didn't have. He  
10 said he had all sorts of different documents.

11 I have prepared a new packet currently being  
12 indexed so I can have an exact record of what is being  
13 turned over. It should be done before lunch, and then  
14 Mr. Bandelli will have everything that I believe his prior  
15 counsel had and additional stuff that I'm not sure whether  
16 they had or didn't have, but he will have everything before  
17 lunch.

18 THE COURT: Good.

19 What's your next issue?

20 MR. BANDELLI: Next issue, Judge, I had been  
21 making efforts to review the file, the Court file, in this  
22 matter because I wanted to calculate the speedy trial time,  
23 and unfortunately Judge Kron's part did not have that file  
24 until the most recent court appearance which was just about  
25 three weeks ago.

Proceedings

1           Having had an opportunity to review it, I have  
2           prepared a 30.30 speedy trial motion which I'm going to  
3           submit to your Honor and turn over to the prosecutor at this  
4           time.

5           THE COURT: This case was sent here as a ready  
6           trial.

7           MR. BANDELLI: I told the judge before it got sent  
8           out that I had applications to make. He was in the middle  
9           of a trial.

10          Can we approach briefly?

11          THE COURT: Approach.

12          (Side-bar discussion held off the record.)

13          THE COURT: You wanted to make a record,  
14          Mr. Bandelli?

15          MR. BANDELLI: Yes, your Honor.

16          As I stated at the bench conference, I'd like to  
17          make an application to preclude any testimony or evidence  
18          regarding counts of the indictment which cover a period  
19          greater than 30 days because they lack sufficient  
20          specificity or specificity. CPL 200.50 Subdivision 6  
21          states, "An indictment must contain a statement in each  
22          count that the offense charged therein was committed on, or  
23          on or about, the designated date or during a designated  
24          period of time."

25          There have been a series of cases where the Courts

## Proceedings

1 have interpreted this particular section of the CPL. The  
2 guiding case is People versus Morris, 61 NY 2d 290 and  
3 People versus Keindel, 68 NY 2d 410. I'll just quote some  
4 of the language from there.

5 "An indictment must provide the accused with fair  
6 notice of the charges against him and of the manner, time  
7 and place of the conduct underlying the accusations so as to  
8 enable him to answer to the charges and to prepare an  
9 adequate defense. The interval time set in each count must  
10 reasonably serve the function of protecting defendant's  
11 constitutional right to be informed of the nature and cause  
12 of the accusation so as to enable to him to prepare a  
13 defense and to plead the judgment in bar of any further  
14 prosecution for the same crime."

15 There are certain factors that the Courts  
16 highlight should be considered in considering the  
17 sufficiency of the span of time set forth and the knowledge  
18 the People have or should have of the exact date or dates of  
19 the crime. Other factors include the age and intelligence  
20 of the victim or witnesses, the surrounding circumstances  
21 and the nature of the offense.

22 If you look at the indictment, it has 55 counts,  
23 Judge. Essentially what the DA's office has done, it's  
24 taken a three-year period or a 39-month period of time and  
25 broken it up into four month blocks alleging one act

## Proceedings

1 occurred during one four-month block, another act occurred  
2 during another four-month block, maybe another act occurred  
3 during a third four-month block and so on and so forth.

4 My position, Judge, is that this is really just an  
5 attempt to try and get it within the dictates of other cases  
6 that have decided, Well, four months can be reasonable or  
7 two months can be reasonable or six months can be  
8 reasonable, but the bottom line is when you indict and  
9 charge like that, how do you really distinguish, for  
10 instance, whether or not -- whether or not something  
11 happened if it's charged between, say, September 1, 2006 and  
12 December 31, 2006. That's a block of time. How do you know  
13 it didn't happen on August 28 of 2006, whether it didn't  
14 happen on January 5 of 2007?

15 There is a problem here, Judge, and it undermines  
16 the defendant's ability to defend himself. We are talking  
17 about three and a half years. How can he say that one count  
18 occurred during one four-month block period and then another  
19 act occurred during another four-month block period? How do  
20 you know that both acts didn't occur during the other four  
21 month block period?

22 You sort of got your hands tied behind your back  
23 as a defense attorney in terms of preparing the defense and  
24 in terms of complying with the CPL.

25 What I would note is that there are certain acts



## Proceedings

1       towards the end that the DA encompasses in a 30-day period.  
2       From what I see in the cases, 30 days is okay, but what's  
3       interesting about this case as opposed to those cases, where  
4       they said 30 days was okay or two months was okay,  
5       frequently the reason why there is a time issue is because  
6       the complainant is either less than 11 years old or  
7       suffering from some disability where time -- you know, they  
8       may not be able to calculate time or remember a particular  
9       date.

10               When this young woman disclosed this some three  
11       and a half years after it allegedly started, she was 17  
12       years old, maybe 18 years old, I think. She was 18 years  
13       old at that time. No. She was 17 years old. I apologize.  
14       So, she doesn't fall into that category of people who are  
15       incapable of remembering a particular date or remembering a  
16       particular time.

17               I don't think that the case law supports their  
18       position in this particular case, and I'd like to make a  
19       record, as I am, and object to the introduction of any  
20       evidence that encompasses a period of 30 days or more.

21               THE COURT: Mr. DA.

22               MR. ROSENBLATT: Judge, there's a great deal of  
23       case law that permits this type of charging by the district  
24       attorney's office, and I could provide it to you after  
25       lunch.

Proceedings

1 THE COURT: The first count you are charging that  
2 on or about what? Between May 1, 2005 and August 31, 2005  
3 how many acts occurred? One?

4 MR. ROSENBLATT: One. All of the time periods,  
5 Judge, the testimony will be that there was one act during  
6 those time periods.

7 THE COURT: How do you pick that type of time  
8 period?

9 MR. ROSENBLATT: I'm sorry, Judge. How did I  
10 determine it?

11 THE COURT: How did you determine the time period?

12 MR. ROSENBLATT: I used my discretion, Judge.

13 THE COURT: How did you determine the time period  
14 besides using your discretion?

15 MR. ROSENBLATT: Based upon my conversations with  
16 the complaining witness.

17 THE COURT: The first eight counts you talk about  
18 a four-month time period and then the ninth you are talking  
19 about a two-month time period.

20 MR. BANDELLI: What happens, Judge, is you go  
21 further along. It goes back into the four-month time  
22 period.

23 THE COURT: The tenth you are talking about a  
24 month. The 11th, a month.

25 MR. ROSENBLATT: Once we get closer, Judge, to the

## Proceedings

1 day she reports it, her ability to recall the events are  
2 clearer and better. You know, obviously her memory is  
3 fresher in June of '08 when she reports the crime. So, when  
4 we get to '08, her ability to say it occurred once in that  
5 month, I can attest, say to a jury with certainty, that  
6 that's what happened. When we go back to '05 I use a  
7 greater time period to make sure that we cover it happened  
8 one time.

9 THE COURT: Do you have any case law?

10 MR. ROSENBLATT: Judge, I will provide case law  
11 after lunch.

12 THE COURT: Do you want to move the case to trial?

13 MR. ROSENBLATT: Yes, your Honor. Under  
14 Indictment 2065 of 2008, the People of the State of New York  
15 move the case against Harold Gopaul to trial.

16 THE COURT: All right. 2:15.

17 MR. BANDELLI: Thank you, Judge.

18 THE COURT: Thank you.

19 MR. ROSENBLATT: Can I borrow the Court's file,  
20 your Honor, for a few minutes?

21 (Recess taken.)

22 \* \* \*

23 THE CLERK: Case on trial, People versus Harold  
24 Gopaul. Let the record reflect the defendant is before the  
25 court. All parties are present, your Honor.

Proceedings

1 THE COURT: I received the People's response to  
2 the defense's 30.30 motion. Did you receive a copy of it?

3 MR. BANDELLI: I did, your Honor.

4 THE COURT: Any further argument by either side on  
5 the 30.30?

6 MR. ROSENBLATT: No.

7 THE COURT: Mr. Bandelli.

8 MR. BANDELLI: As far as the July 20, 2009 date  
9 when the case was on in TAP-A, and the DA indicates that the  
10 Court file says that the time is excludable, I don't see a  
11 basis for that time to be excludable when, you know, he was  
12 supposed to be here for trial. They had sufficient notice  
13 that he was supposed to be here for trial, and they knew  
14 that he was in Nassau County. I don't know how July 20  
15 through September 6 is excludable at this point.

16 As far as the June 8 date, I didn't have the  
17 transcript minutes that ADA Rosenblatt supplied along with  
18 his response. The file wasn't clear what had happened on  
19 that date. I relied on the file in preparing my motion, and  
20 it looks like both sides were asking for an adjourned date.  
21 I don't know that the DA was in fact ready to proceed on  
22 June 8, 2009. So, with regard to those two timeframes,  
23 Judge, I would still argue that they are not excludable  
24 under 30.30.

25 THE COURT: Thank you.

## Proceedings

1 Defense application to dismiss the indictment  
2 pursuant to CPL Section 210.20 Subsection 1-G and 30.30 is  
3 denied.

4 Defense application to dismiss for lack of  
5 specificity in the indictment is also denied.

6 MR. BANDELLI: Note my exception, Judge.

7 THE COURT: You have your exception for the  
8 record, Mr. Bandelli.

9 Are you ready to proceed with the Sandoval  
10 application?

11 MR. ROSENBLATT: Yes, Judge.

12 THE COURT: What, if any, prior bad acts and/or  
13 convictions do you wish to cross-examine the defendant about  
14 should he decide to take the witness stand in his own  
15 defense?

16 MR. ROSENBLATT: I wish to cross-examine the  
17 defendant on the fact that he was convicted by a jury in  
18 Nassau County. I'm not seeking to introduce the nature of  
19 those allegations. I'm not interested in bringing up the  
20 facts of the case. I'm asking for a compromise from your  
21 Honor to bring out that the defendant was convicted of  
22 numerous felonies. I'm not asking to bring out the fact  
23 that they were sexual in nature. I'm not asking that it be  
24 brought up that it was his stepdaughter, but that he was  
25 convicted in Nassau county in 2009. I'm asking that I

Proceedings

1 should be permitted to cross-examine on that.

2 THE COURT: What's the date of the conviction,  
3 Mr. DA?

4 MR. ROSENBLATT: The date of the conviction is  
5 May, according to Nassau County, May 15, 2009 the was day  
6 the jury reached a verdict.

7 THE COURT: What was he convicted of?

8 MR. ROSENBLATT: He was convicted of seven counts  
9 of sex abuse one.

10 THE COURT: What was the time period of those  
11 incidents?

12 MR. ROSENBLATT: Those incidents were in May of  
13 2008 and June of 2008.

14 THE COURT: Do you wish to be heard, Mr. Bandelli?

15 MR. BANDELLI: Yes, Judge.

16 I would oppose any cross-examination on a  
17 conviction that is so closely related to the facts of this  
18 case. Number one, it's the same complainant. Number two,  
19 although the charges were alleged to have happened in Nassau  
20 County, the charges are identical. They are going to bring  
21 forward evidence that he was engaged in acts in Queens the  
22 same time of these particular charges in Nassau County. I  
23 don't think that it serves any probative purpose at this  
24 point.

25 It's my understanding that he was arrested on

## Proceedings

1 those charges subsequent to being indicted on the charges in  
2 this case. To permit the DA to cross-examine him with  
3 respect to whether or not he was convicted of a crime in May  
4 of 2009 offers nothing in terms of probative value, Judge,  
5 but it is extremely prejudicial to my client. He has a  
6 right to testify at this trial. This is a case that is  
7 going to be based solely on the testimony of the complainant  
8 and a video statement and written statements taken of my  
9 client. To permit him to be cross-examined concerning a  
10 conviction that comes from the same case would undermine  
11 ability to effectively represent him in terms of being  
12 permitted to put him on the witness stand.

13 So, your Honor, I would argue that this is a  
14 person who has been out of trouble for 99 percent of his  
15 life. In other words, there is no criminal history aside  
16 from this. There is nothing about his past behavior that  
17 would demonstrate that this is somebody whose credibility  
18 should be questioned based on past criminal acts. Whether  
19 or not he is credible should be based on cross-examination  
20 as to the facts of this particular case.

21 So, your Honor, I vehemently oppose permitting the  
22 DA to cross-examine concerning a conviction which is  
23 essentially a conviction in the same matter. You know, he  
24 is supposed to be getting a new trial here.

25 THE COURT: Thank you.

## Proceedings

1 MR. ROSENBLATT: Judge, I would just note one  
2 inconsistency with what Mr. Bandelli said to what is  
3 actually true, and that would be the fact that the defendant  
4 does have prior arrests. In fact, the defendant has two  
5 prior arrests unrelated to these allegations involving his  
6 stepdaughter. I'm not seeking to go into those two  
7 incidents in Nassau County where the defendant was -- excuse  
8 me, three incidents -- two incidents, rather -- my  
9 apologies -- where in Nassau County in 2002 he was arrested  
10 for endangering the welfare of a child and petit larceny and  
11 ultimately convicted of a violation, as well as the year  
12 earlier in 2001 where he was arrested for patronizing a  
13 prostitute. I'm not looking to go into those facts, but I  
14 would note for the record he does have prior contacts.

15 This does go to the heart of his ability to put  
16 his interests above those of society, and it goes to  
17 credibility which I believe the jury should be entitled to  
18 hear.

19 THE COURT: So, you are not seeking to go into  
20 those other two cases.

21 MR. ROSENBLATT: That's correct, Judge. I just  
22 want the Court to be aware of them should the defendant  
23 testify and open the door.

24 THE COURT: I'll reserve decision on that.

25 Any other matters before I bring in the jury



Proceedings

1 panel?

2 MR. ROSENBLATT: Well, I have a few matters.

3 First, I'm turning over to counsel all of the  
4 Rosario material. I've provided a list to the Court.

5 THE COURT: Are you providing a copy of the  
6 Rosario material to the Court?

7 MR. ROSENBLATT: I can provide a copy to the  
8 Court. That copy is redacted, your Honor. It's my  
9 experience that the Court doesn't prefer to have redacted  
10 versions, so I'm putting together an unredacted copy for,  
11 your Honor.

12 THE COURT: Thank you, Mr. Rosenblatt.

13 Do you have a witness list?

14 MR. ROSENBLATT: I do.

15 THE COURT: Do you have a proposed witness list,  
16 Mr. Bandelli?

17 MR. BANDELLI: Not at this point, Judge.

18 MR. ROSENBLATT: Judge, even though my witness  
19 list is comprised of ten names, I don't believe that I'm  
20 going to call all of these individuals. I believe some of  
21 them, their names may come up during the course of the  
22 trial, but I do want to reserve that right to call some of  
23 these individuals, but I just wanted the Court to be aware  
24 of that.

25 THE COURT: 242-10 89 Avenue is the location of

Proceedings

1 all of these incidents in the indictment?

2 MR. ROSENBLATT: Correct, your Honor.

3 MR. BANDELLI: That's not completely correct. It  
4 is also alleged there were incidents that occurred by a  
5 school on Commonwealth Boulevard; is that right?

6 THE COURT: Is that true, Mr. Rosenblatt?

7 MR. ROSENBLATT: I just want to double check, your  
8 Honor.

9 Yes. I'm sorry. My apologies. There are a few  
10 of the incidents occurred at 74-20 Commonwealth Boulevard.

11 THE COURT: That's also in the Bellerose section?

12 MR. ROSENBLATT: Yes.

13 THE COURT: And the time period is from January 1,  
14 2005 to June 21, 2008?

15 MR. ROSENBLATT: May of 2005 is when it begins,  
16 Judge, and it ends June 23, 2008 under the endangering  
17 count. The last sex crime is alleged to have occurred  
18 between June 1 and June 20 of 2008.

19 THE COURT: Anything else before we bring in the  
20 panel?

21 MR. BANDELLI: My client has executed the  
22 Antommarchi.

23 THE COURT: Thank you, Mr. Bandelli.

24 MR. ROSENBLATT: The last two things, as I brought  
25 forth to the Court's attention, I'm asking the defendant --

## Proceedings

1 well, I'm asking, your Honor, to sign a so-ordered subpoena  
2 for the defendant's medical records which I believe could be  
3 at issue in this case based upon his prior testimony, and  
4 based upon my dealings with Long Island Jewish Hospital,  
5 that's Northshore LIJ, I'm asking the defendant to sign a  
6 HIPAA release as well. The hospital is giving my office  
7 numerous problems with turning over medical records without  
8 HIPAA releases.

9 THE COURT: What's your objection on that,  
10 Mr. Bandelli?

11 MR. BANDELLI: I'm not going to recommend that he  
12 sign a HIPAA release at this time, Judge.

13 THE COURT: Mr. Gopaul, I have this form in front  
14 of me. It's a waiver of defendant's presence at voir dire  
15 side-bar conferences. Is that your signature on this,  
16 Mr. Gopaul?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Did you discuss this with Mr. Bandelli  
19 before you signed it?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Did you understand those discussions?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: You signed this under your own free  
24 will?

25 THE DEFENDANT: Yes, your Honor.

Proceedings

1 THE COURT: All right. This will be become Court  
2 Exhibit No. 1, the Antommarchi waiver.

3 (Antommarchi waiver was marked Court Exhibit  
4 No. 1.)

5 THE COURT: Bring in the jury panel.

6 MR. ROSENBLATT: The last thing -- I'm sorry --  
7 that I wanted to just make sure your Honor was aware about,  
8 I mentioned to the Court earlier that I have one witness who  
9 is going on vacation beginning on Monday of next week for  
10 two weeks, and my readiness was based upon the fact that  
11 this witness would finish testifying at the end of this  
12 week.

13 THE COURT: Oh, yeah?

14 MR. ROSENBLATT: I had informed Judge Kron of  
15 that. His clerk informed me that he would then alert  
16 whoever was sending us out that that would be acceptable  
17 with the trial Court. If we begin picking today, I see no  
18 reason why that would be an issue.

19 THE COURT: That's all up to you.

20 MR. ROSENBLATT: Very well.

21 THE COURT: Bring in the panel, please.

22 MR. ROSENBLATT: I'm asking the defendant to sign  
23 the HIPAA waiver. Without it, the hospital will refuse to  
24 turn over the medical records. If he plans on testifying,  
25 it's going to be a break in the trial because they are not

Proceedings

1 going to give me the records.

2 THE COURT: He doesn't want to sign it.

3 MR. ROSENBLATT: Then I mean no disrespect to the  
4 Court, but Northshore is refusing to turn over records based  
5 on the judge's signature.

6 THE COURT: Did you hear what I said?

7 MR. ROSENBLATT: I understand that, Judge, and I  
8 will plan on using that during cross-examination.

9 THE COURT: Plan on using what?

10 MR. ROSENBLATT: I'm sorry.

11 THE COURT: Plan on using what?

12 MR. ROSENBLATT: The fact that he refused to sign  
13 a HIPAA waiver in order for me to obtain his medical  
14 records.

15 THE COURT: We will deal with that if he decides  
16 to take the witness stand.

17 Bring in the panel, please.

18 (Panel of prospective jurors enters the  
19 courtroom.)

20 THE CLERK: Case on trial. People versus Howard  
21 Gopaul all parties are present, your Honor.

22 THE COURT: Good afternoon, ladies and gentlemen,  
23 and welcome to an American court of law. I'm justice  
24 Gregory Lasak. I'll be presiding over this trial which is a  
25 trial of a criminal matter entitled the People of the State

## Proceedings

1 of New York against Harold Gopaul, the defendant, charging  
2 him with various counts of criminal sexual act in the first  
3 degree, sexual abuse in the first degree, criminal sexual  
4 act in the second degree and third degrees, assault in the  
5 third degree and endangering the welfare of a child.

6 Before we go any further, I'm going to ask that  
7 the clerk please swear you in.

8 THE CLERK: Will all members of the panel please  
9 rise and raise your right hand.

10 (Panel sworn in by the clerk of the court.)

11 THE COURT: Please fill up the jury box.

12 THE CLERK: If your name is called, follow the  
13 instructions of the court officer.

14 Nancy E. Rudolph, R-u-d-o-l-p-h, seat number one,  
15 please.

16 Kevin Leong, L-e-o-n-g, seat number two, please.

17 Michael Falci, F-a-l-c-i, seat number three.

18 Timothy J. Luke, L-u-k-e, seat number four,  
19 please.

20 Ramon Cruz, C-r-u-z, seat number five, please.

21 Jerin Varghese, J-e-r-i-n, V-a-r-g-h-e-s-e, seat  
22 number six, please.

23 Michele L. Manisoff, M-a-n-i-s-o-f-f, seat number  
24 seven, please.

25 Janessa Martinez, M-a-r-t-n-e-z, seat number

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1 eight, please.

2 Nancy D. Rokano, R-o-k-a-n-o, seat number nine,  
3 please.

4 Cynthia G. Suarez, S-u-a-r-e-z, seat number ten.

5 Mustafizur Rahman, M-u-s-t-a-f-i-z-u-r, last name  
6 R-a-h-m-a-n, seat number 11, please.

7 Urmrula M. Lackhan, U-r-m-r-u-l-a, last name  
8 L-a-c-k-h-a-n, seat number 12, please.

9 Luis A. Perez, P-e-r-e-z, seat number 13, please.

10 Leidy Polanco, L-e-i-d-y, last name P-o-l-a-n-c-o,  
11 seat number 14, please.

12 Gibson S. Pereira, P-e-r-e-i-r-a, seat number 15,  
13 please.

14 Nicholas Singh, S-i-n-g-h, seat number 16, please.

15 THE COURT: I'm going to be addressing the 16  
16 prospective jurors who are seated in the jury box, but I'd  
17 like everybody out there to please pay attention because you  
18 will be coming up here next.

19 We are going to be selecting a jury on this case,  
20 and the purpose of jury selection is to impanel a jury that  
21 can be fair and impartial to both sides and that represents  
22 a good cross-section of our community here in Queens County,  
23 and by the looks of this jury panel I can see it does  
24 represent a good cross-section of our community here in  
25 Queens County.

## Proceedings

1 As you know, or should know, the district attorney  
2 of this county is Richard Brown, and he appoints assistant  
3 district attorneys to represent him and the People of the  
4 State of New York in these criminal trials here in Kew  
5 Gardens, and representing the People in this case will be  
6 Assistant District Attorney Jared Rosenblatt.

7 Would you stand up, please?

8 MR. ROSENBLATT: Good afternoon. Good afternoon.

9 THE COURT: I said the defendant is Harold Gopaul.  
10 He is seated at the table in the white shirt, and  
11 representing him is his attorney Mr. Stanford Bandelli.

12 Would you please stand up.

13 MR. BANDELLI: Good afternoon, ladies and  
14 gentlemen. Good afternoon, everybody.

15 THE COURT: I'm going to read you a list of  
16 prospective witnesses or people whose names may come up  
17 during the course of this trial to see if you are familiar  
18 with them or you are familiar with any of the parties  
19 involved in this case.

20 Sana Awan, Denise Alioto, Christine Alioto,  
21 Detective Lennard Schulman, ADA Brian Hughes, Police Officer  
22 Celica Alfaro, Police Officer Sara Morris, Barbara  
23 Heffernan, and Dr. Done Lewittes.

24 If anyone is familiar with those names or parties  
25 involved, just let me know while you are seated in the box.



## Proceedings

1           The time period we are going to be concerned with  
2           is May 2005 to June 2008, and the locations we are going to  
3           be concerned with are 242-10 89 Avenue and 74-20  
4           Commonwealth Boulevard. Those locations are in the  
5           Bellerose section of eastern Queens.

6           Is anyone in the jury box familiar with any of  
7           those names? Please raise your hand. Okay. That's good.

8           Serving on a jury is part of your obligation as  
9           citizens of this county here in Queens. It's also a  
10          privilege to sit as a juror on a criminal case. We are  
11          going to be asking you various questions about your  
12          background to see if you are qualified to sit as jurors in  
13          this case. I just want to tell you I believe you are all  
14          here on your first day of jury service; is that correct?

15          All right. This trial will not last longer than  
16          your two-week commitment for jury service in case any of you  
17          have any vacation plans or any commitments. It's not going  
18          to go beyond two weeks if anyone has a concern with that.

19          I'm going to start by giving you three basic  
20          principles of law that apply to every criminal case in New  
21          York State regardless of what the charges are, and these  
22          basic principles of law apply to every criminal case in New  
23          York State since we started New York State hundreds of years  
24          ago, and they are:

25          Number one, the defendant is presumed innocent;

## Proceedings

1           Number two, the DA has the burden to prove him  
2           guilty beyond a reasonable doubt. I'll explain that term to  
3           you later on during the course of the trial in more detail,  
4           and if the defendant decides not to testify in his own  
5           behalf, that's not a factor from which you can draw an  
6           inference unfavorable to him.

7           Anyone here in the jury box have a problem  
8           understanding those basic principles or understanding  
9           English, raise your hand. Everyone here is totally fluent  
10          in English? If you have a problem understanding English,  
11          let me know right now.

12          Again, as I said, this is part of your obligation  
13          as citizens of Queens to sit as jurors. I know we take you  
14          away from your lives for a short period of time every number  
15          of years, but don't try to get out of jury duty here because  
16          I'm not going to be too happy about that. You understand  
17          that? This is an obligation that you have.

18          Miss Rokano, do you want to come up here, please?

19               (The following proceedings took place at  
20          side-bar.)

21               THE COURT: Good afternoon, Miss Rokano.

22               PROSPECTIVE JUROR: Good afternoon.

23               THE COURT: You have a problem understanding?

24               PROSPECTIVE JUROR: I understand just a little,  
25          not too much, and I don't think so it's not enough.

Proceedings

1 THE COURT: What?

2 PROSPECTIVE JUROR: I think it's not enough  
3 understand.

4 THE COURT: How long have you been in this  
5 country?

6 PROSPECTIVE JUROR: Nine years.

7 THE COURT: Nine years?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Are you working?

10 PROSPECTIVE JUROR: No.

11 THE COURT: It's very important for a juror on a  
12 criminal case to understand English a hundred percent;  
13 otherwise, it wouldn't be fair. So, I appreciate your  
14 coming in as a good citizen, but if you don't understand  
15 English a hundred percent, it wouldn't be fair to either  
16 side. You understand that right?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: We are going to let you go back home,  
19 okay?

20 PROSPECTIVE JUROR: Okay.

21 THE COURT: Thank you very much. The officer will  
22 give you a slip.

23 Miss Rokano is excused consent of both sides?

24 MR. ROSENBLATT: Yes.

25 MR. BANDELLI: Yes.

Proceedings

1 THE COURT: Miss Suarez. Good afternoon,  
2 Miss Suarez.

3 PROSPECTIVE JUROR: Hi.

4 THE COURT: You have a problem understanding  
5 English?

6 PROSPECTIVE JUROR: I speak English, but only  
7 legal terms you are using I can't understand everything, and  
8 I understand what's going on but not everything what you  
9 say.

10 THE COURT: Okay. How long have you been in this  
11 country?

12 PROSPECTIVE JUROR: Sixteen years.

13 THE COURT: Sixteen?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Are you working?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: What do you do?

18 PROSPECTIVE JUROR: Roosevelt Hotel server/  
19 waitress.

20 THE COURT: Okay. Do you speak English during the  
21 day there?

22 PROSPECTIVE JUROR: Yes, all day. I don't  
23 understand all the legal terms you use.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR: But I understand.

Proceedings

1 THE COURT: You see, in a criminal case it's very  
2 important for a juror to understand English a hundred  
3 percent; otherwise, it wouldn't be fair to either side here.  
4 So, we appreciate your being a good citizen and coming in to  
5 serve as a juror, but we are going to excuse you from this  
6 case. Okay?

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: You will be able to go back to work  
9 tomorrow if you like.

10 PROSPECTIVE JUROR: Okay.

11 THE COURT: The officer will give you the slip.

12 Prospective juror Miss Suarez is excused consent  
13 of both sides?

14 MR. ROSENBLATT: Yes, sir.

15 MR. BANDELLI: Yes, sir.

16 THE COURT: Anyone else?

17 (In open court.)

18 THE CLERK: Andrew T. Fishtein, F-i-s-h-t-e-i-n,  
19 seat number nine, please.

20 Justin S. Marks, M-a-r-k-s, seat number ten,  
21 please.

22 THE COURT: Good afternoon, Mr. Fishtein and  
23 Mr. Marks. Did you both hear those basic principles I just  
24 stated?

25 PROSPECTIVE JUROR: Yes.

Proceedings

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Either of have you a problem  
3 understanding them?

4 PROSPECTIVE JUROR: No.

5 PROSPECTIVE JUROR: No.

6 THE COURT: Now that I know everyone in the jury  
7 box understood those three basic principles, anyone have a  
8 problem following them? Please raise your hand.

9 See, if you are selected as a juror, you become  
10 what we call the judge of the facts, and I'm the judge of  
11 the law, and you must accept the law as I give it to you and  
12 will continue to give it to you during the course of this  
13 trial. That's my job. You must accept it even if you  
14 disagree with it. Do you understand that? Good.

15 I'm going to ask you a series of questions, and  
16 you will respond by raising your hand.

17 Anyone in the jury box ever served as a juror  
18 before on a criminal case and actually sat and listened to  
19 testimony as a juror on a criminal case? Please raise your  
20 hand if you have done that in the past.

21 Mr. Cruz.

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: About how many years ago was that?

24 PROSPECTIVE JUROR: Six years ago.

25 THE COURT: Six years ago?

Proceedings

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: And without telling me what it was,  
3 were you able to reach a verdict?

4 PROSPECTIVE JUROR: We actually didn't go to the  
5 full extent. I think he copped a plea, and we were  
6 dismissed after that.

7 THE COURT: All right. What was the charge in  
8 that case? Do you remember?

9 PROSPECTIVE JUROR: Vehicular manslaughter.

10 THE COURT: All right. Did anyone else have their  
11 hand up?

12 Next question. Any of you been the victim of a  
13 crime? If you have been the victim of a crime, please raise  
14 your hand. Have your car stolen or somebody hurt you in  
15 some way that you called the police. Someone broke into  
16 your home. Anything like that. No one here?

17 Mr. Varghese.

18 PROSPECTIVE JUROR: Yes. I just wanted to make it  
19 clear, my family went through identity theft but that --

20 THE COURT: What?

21 PROSPECTIVE JUROR: Identity theft.

22 Would that be considered --

23 THE COURT: Yes. That's a crime.

24 Did you call the police?

25 PROSPECTIVE JUROR: Yes.

Proceedings

1 THE COURT: Was anyone arrested?

2 PROSPECTIVE JUROR: No. There was just an  
3 investigation.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR: There was two. One one year  
6 ago and another about ten years ago.

7 THE COURT: The one a year ago, is that still  
8 going on?

9 PROSPECTIVE JUROR: I'm not sure right now.

10 THE COURT: That's a real headache.

11 PROSPECTIVE JUROR: Yes. Absolutely.

12 THE COURT: I'm sure you agree that has nothing to  
13 do with this case and this defendant.

14 PROSPECTIVE JUROR: Sure.

15 THE COURT: You can be fair to both sides?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Thank you.

18 Mr. Singh.

19 PROSPECTIVE JUROR: Yes. Wife was stalked.

20 THE COURT: Your wife was stalked?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Was that in Queens --

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Did you call the police?

25 PROSPECTIVE JUROR: Yes.



Proceedings

1 THE COURT: Was anyone arrested?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Anything about that that would give  
4 you a problem sitting as a fair juror here?

5 PROSPECTIVE JUROR: I'm not sure I could answer  
6 that question until I hear the facts of the case.

7 THE COURT: Well, would you agree with me that  
8 that has nothing to do with this case?

9 PROSPECTIVE JUROR: Again, I can't say unless I  
10 hear the facts of the case.

11 THE COURT: Come up, Mr. Singh.

12 (The following proceedings took place at  
13 side-bar.)

14 THE COURT: You don't think this defendant had  
15 anything to do with your incident; do you?

16 PROSPECTIVE JUROR: The man that stalked my wife  
17 was never found. It went on for about nine months to a  
18 year.

19 THE COURT: That's not the question. I said do  
20 you think he has anything to do with your incident.

21 PROSPECTIVE JUROR: Well, like I said, I haven't  
22 heard the facts of his case. I can't clearly say yes or no.

23 THE COURT: All right. So, we can't talk about  
24 the facts of the case during jury selection, so you think  
25 that might be a problem?

Proceedings

1 PROSPECTIVE JUROR: No.

2 THE COURT: Would it help if I told you that there  
3 is no stalking involved in this case?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: There is no stalking involved here, is  
6 there, Mr. DA?

7 MR. ROSENBLATT: No.

8 THE COURT: Okay. Does that relieve your concern?

9 PROSPECTIVE JUROR: There is no concerns.

10 THE COURT: You could be fair to both sides?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Okay. Thank you very much.

13 (In open court.)

14 THE COURT: Anybody else have their hand up now  
15 that you have had time to think about it?

16 No one had their car stolen or house broken into?  
17 Good.

18 Next question, any of you in the jury box or  
19 anyone close to you, whether it's a close friend, relative,  
20 ever been arrested or accused of a crime?

21 Have any of you or anyone close to you ever been  
22 arrested or accused of a crime? Please raise your hand.

23 Mr. Cruz, come up, please.

24 (The following proceedings took place at  
25 side-bar.)

Proceedings

1 THE COURT: Who do you know that was arrested?

2 PROSPECTIVE JUROR: I was.

3 THE COURT: How long ago?

4 PROSPECTIVE JUROR: About six years ago.

5 THE COURT: Was that in Queens?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: What were you charged with?

8 PROSPECTIVE JUROR: Simple assault.

9 THE COURT: Was it somebody that you knew?

10 PROSPECTIVE JUROR: It was -- I'm president of my  
11 co-op, and it was a tenant tried to assault me.

12 THE COURT: What precinct was involved?

13 PROSPECTIVE JUROR: What?

14 MR. BANDELLI: You said he tried to assault you  
15 and you were arrested?

16 PROSPECTIVE JUROR: That's correct, yes.

17 THE COURT: What precinct was that?

18 PROSPECTIVE JUROR: 109.

19 THE COURT: In Flushing?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: And what happened to the charges?

22 PROSPECTIVE JUROR: They were sealed. I was never  
23 told by my attorney.

24 THE COURT: How many times did you have to go to  
25 court?

Proceedings

1 PROSPECTIVE JUROR: About 16 times.

2 THE COURT: And was it dismissed and sealed?

3 PROSPECTIVE JUROR: If I knew that I would tell  
4 you, your Honor.

5 THE COURT: Okay. Do you think you were treated  
6 fairly or unfairly by the criminal justice system?

7 PROSPECTIVE JUROR: Unfairly.

8 THE COURT: Any bad feelings towards the Police  
9 Department or the DA?

10 PROSPECTIVE JUROR: Well, I served on the Police  
11 Department for 20 years.

12 THE COURT: As a police officer?

13 PROSPECTIVE JUROR: Yes. Retired from there 21  
14 years ago.

15 THE COURT: Where did you work?

16 PROSPECTIVE JUROR: I worked in the 30 Precinct.

17 THE COURT: Manhattan?

18 PROSPECTIVE JUROR: Yes, your Honor, Sugar Hill.

19 I was also in the Air Force for 30 years, too, running both  
20 things concurrently.

21 THE COURT: What are you doing now?

22 PROSPECTIVE JUROR: Retired fully.

23 THE COURT: So, any bad feelings towards the  
24 criminal justice system in Queens?

25 PROSPECTIVE JUROR: Well, I have doubts about the

Proceedings

1 system. Yes, I do. Like I said, I was assaulted, and yet I  
2 was arrested and the other individual was not.

3 THE COURT: You think that might affect your  
4 ability to be fair in this case?

5 PROSPECTIVE JUROR: Well, I have my doubts, like I  
6 say, about the system.

7 THE COURT: Okay. What happened to you may come  
8 into play?

9 PROSPECTIVE JUROR: It certainly might.

10 THE COURT: It may affect your ability to be fair?

11 PROSPECTIVE JUROR: That's correct.

12 THE COURT: All right. We are going to excuse you  
13 from this case, Mr. Cruz. Go to central jury to sit on  
14 civil cases.

15 PROSPECTIVE JUROR: No problem.

16 THE COURT: Thank you for your honesty.

17 Prospective jurors Cruz is excused on consent of  
18 both sides?

19 MR. BANDELLI: Yes.

20 MR. ROSENBLATT: Yes.

21 THE COURT: Mr. Singh, who do you know that was  
22 arrested?

23 PROSPECTIVE JUROR: I was.

24 THE COURT: About how long ago?

25 PROSPECTIVE JUROR: Once in 1999 and once in 2002.

Proceedings

1 THE COURT: What happened in '99? What were you  
2 charged with?

3 PROSPECTIVE JUROR: Underage possession of  
4 alcohol.

5 THE COURT: Where was that? In Queens?

6 PROSPECTIVE JUROR: Florida.

7 THE COURT: Florida?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Were you actually arrested, or did  
10 they give you a summons?

11 PROSPECTIVE JUROR: I believe I was arrested.

12 THE COURT: What happened to the case?

13 PROSPECTIVE JUROR: Paid a summons. Paid \$400  
14 fine.

15 THE COURT: The one in 2002, you said.

16 PROSPECTIVE JUROR: Yes. Loitering.

17 THE COURT: Where was that?

18 PROSPECTIVE JUROR: Queens, Bayside.

19 THE COURT: What were the circumstances behind  
20 that?

21 PROSPECTIVE JUROR: Outside of a high school for  
22 too long, and he arrest me and took me to local jail, local  
23 precinct.

24 THE COURT: The 111 Precinct?

25 PROSPECTIVE JUROR: Yes, 111, Northern Boulevard.

Proceedings

1 THE COURT: What happened to your case?

2 PROSPECTIVE JUROR: Went to court three or four  
3 times and was found innocent.

4 THE COURT: You went to trial?

5 PROSPECTIVE JUROR: Yes, because they said if I  
6 didn't and if I paid the \$25 fine, I would have a record  
7 because I was over the age of 18.

8 THE COURT: You actually had a jury trial or a  
9 judge trial?

10 PROSPECTIVE JUROR: Judge.

11 THE COURT: Do you feel that you were treated  
12 fairly by the system?

13 PROSPECTIVE JUROR: Unfairly.

14 THE COURT: Unfairly?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: In both of those cases?

17 PROSPECTIVE JUROR: No. In the second case. I  
18 was treated fairly in the first.

19 THE COURT: That case, the second one, was  
20 prosecuted by the Queens DA's office?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Do you have any bad feelings based  
23 upon the feelings that you were treated unfairly?

24 PROSPECTIVE JUROR: In terms of the policeman,  
25 yes, I was treated unfairly. I was profiled.

Proceedings

1 THE COURT: You think that might affect your  
2 ability to be fair in this case?

3 PROSPECTIVE JUROR: Again, I'm on the fence. It's  
4 hard for me. I've since joined the clergy.

5 THE COURT: Congratulations.

6 PROSPECTIVE JUROR: I'm a person that I cannot  
7 answer without knowing facts.

8 THE COURT: Okay. You see, this is the only time  
9 that we can talk to each other. If there a possibility that  
10 your feelings towards police may come into play when you are  
11 making a decision on this case, you have to let me know now  
12 if there is a possibility.

13 PROSPECTIVE JUROR: There is a possibility.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: Based on prior knowledge.

16 THE COURT: Okay. We are going to excuse you from  
17 this case.

18 PROSPECTIVE JUROR: Okay. We will have you sit on  
19 civil cases. Thank you for your honesty. Have a nice day,  
20 sir.

21 Mr. Singh is excused consent of both sides?

22 MR. ROSENBLATT: Yes.

23 MR. BANDELLI: Yes.

24 (In open court.)

25 THE CLERK: Carroll Mohammed, M-o-h-a-m-m-e-d,



Proceedings

1 please take seat number five.

2 Brian M. Lall, L-a-l-l, seat number 16.

3 THE COURT: Good afternoon, Miss Mohammed and  
4 Mr. Lall. Did both of you hear those three basic principles  
5 of law?

6 PROSPECTIVE JUROR: Yes.

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Either of you have a problem  
9 understanding them? Please raise your hand. Either of you  
10 have a problem following them? You have to speak.

11 PROSPECTIVE JUROR: No.

12 PROSPECTIVE JUROR: No.

13 THE COURT: Okay.

14 Either of you ever served as a juror before in a  
15 criminal case?

16 PROSPECTIVE JUROR: No.

17 PROSPECTIVE JUROR: No.

18 THE COURT: Either of you been the victim of a  
19 crime?

20 PROSPECTIVE JUROR: No.

21 PROSPECTIVE JUROR: No.

22 THE COURT: Either of you or anyone close to you  
23 ever been arrested or accused of a crime?

24 PROSPECTIVE JUROR: No.

25 PROSPECTIVE JUROR: Yes.

Proceedings

1 THE COURT: Come up, Mr. Lall.

2 (The following proceedings took place at  
3 side-bar.)

4 PROSPECTIVE JUROR: Hi.

5 THE COURT: Who do you know that was arrested?

6 PROSPECTIVE JUROR: One of my friends from high  
7 school. He was accused of stealing a bicycle, but it was  
8 dismissed because they had a security camera, and they  
9 thought it was him, but he was at work, so he got his time  
10 sheet when he clocked in for the trial, and it was  
11 dismissed.

12 THE COURT: What high school?

13 PROSPECTIVE JUROR: John Adams.

14 THE COURT: You think that he was treated fairly  
15 or unfairly by the system?

16 PROSPECTIVE JUROR: He was held overnight in  
17 booking right here, Central Booking, and I thought that was  
18 unfair because he had to stay the whole night for something  
19 that he didn't do.

20 THE COURT: They let him go the next day, right?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: You think what happened to your friend  
23 would affect your ability to be fair?

24 PROSPECTIVE JUROR: No.

25 THE COURT: That has nothing to do with this case?

Proceedings

1 PROSPECTIVE JUROR: No.

2 THE COURT: You can be fair to both sides?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: You can take a seat.

5 (In open court.)

6 THE COURT: You heard me read the list of charges  
7 in the indictment. They are of a sexual nature, and they  
8 involve a family member.

9 Anything about the nature of those charges that  
10 give you a problem sitting on this trial? Raise your hand.

11 Mr. Luke.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Come up here, please.

14 (The following proceedings took place at  
15 side-bar.)

16 THE COURT: Why would it give you a problem?

17 PROSPECTIVE JUROR: One of my best friends was  
18 sexually abused at the age of seven, and the abuse continued  
19 until she was a teenager.

20 THE COURT: You think based on what happened to  
21 your friend you would have a problem being fair in this  
22 case?

23 PROSPECTIVE JUROR: I might.

24 THE COURT: All right. I'm going to excuse you  
25 from this case. We will have you sit on civil cases. Okay?

Proceedings

1 PROSPECTIVE JUROR: Thank you.

2 THE COURT: Thank you for your honesty, Mr. Luke.  
3 Mr. Luke is excused consent of both sides?

4 MR. ROSENBLATT: Yes.

5 MR. BANDELLI: Absolutely.

6 THE COURT: Michele Manisoff, why would you have a  
7 problem with the charges?

8 PROSPECTIVE JUROR: Well, I do work with children.  
9 I feel --

10 THE COURT: You what?

11 PROSPECTIVE JUROR: I work with children. I feel  
12 very strongly about helpless people being attacked, and I  
13 could feel myself getting kind of emotional about the  
14 subject, so I didn't know how fair I could be.

15 THE COURT: All right. What do you with children?

16 PROSPECTIVE JUROR: I work in the schools as an  
17 occupational therapist.

18 THE COURT: In the City system?

19 PROSPECTIVE JUROR: Yes, but not for the City  
20 system. I work in the City system.

21 THE COURT: Based upon your job, you think that if  
22 you heard charges involving a young person --

23 PROSPECTIVE JUROR: Well --

24 THE COURT: -- those charges would give you a  
25 problem being fair?

Proceedings

1 PROSPECTIVE JUROR: I feel very emotional about it  
2 whether or not I was working in the field. If helpless  
3 people are possibly being attacked, I think it would I would  
4 be very emotionally clouded. Whether or not I worked with  
5 children really doesn't have that much to do with it, but it  
6 sort of brings it to my attention a little more.

7 THE COURT: So, because of these charges you would  
8 have a problem?

9 PROSPECTIVE JUROR: Possibly. It might be harder  
10 to be fair.

11 THE COURT: We are going to have you sit on civil  
12 cases. I appreciate your honesty. Thank you, ma'am.

13 Miss Manisoff is excused on consent of both sides?

14 MR. ROSENBLATT: Yes.

15 MR. BANDELLI: Yes.

16 (In open court.)

17 THE COURT: Fill the seats, please.

18 THE CLERK: Nandinee Singh, N-a-n-d-i-n-e-e, last  
19 name S-i-n-g-h, seat number four, please.

20 Jennifer L. Chen, C-h-e-n, seat number seven,  
21 please.

22 THE COURT: Good afternoon, Miss Singh --

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: -- and Miss Chen.

25 Did you both hear these three basic principles of

Proceedings

45

1 law?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Either of have you a problem  
4 understanding them?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Either of you have a problem following  
7 them?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Either of you ever been the victim of  
10 a crime?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Either of you ever served as a juror  
13 before in a criminal case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Either of you or anyone close to you  
16 ever been arrested or accused of a crime?

17 PROSPECTIVE JUROR: No.

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Come up, Miss Singh.

20 (The following proceedings took place at  
21 side-bar.)

22 THE COURT: Who do you know that was arrested?

23 PROSPECTIVE JUROR: My husband's nephew.

24 THE COURT: About how long ago?

25 PROSPECTIVE JUROR: A couple of years ago.

Proceedings

1 THE COURT: Was that in Queens?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: What was he charged with?

4 PROSPECTIVE JUROR: Fighting in school.

5 THE COURT: Fighting?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Was that in high school?

8 PROSPECTIVE JUROR: High school.

9 THE COURT: What high school was that?

10 PROSPECTIVE JUROR: The one by Parsons Boulevard.

11 THE COURT: Hillcrest High School.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: And what happened to his case?

14 PROSPECTIVE JUROR: It was jail.

15 THE COURT: He went to jail?

16 PROSPECTIVE JUROR: He went to jail, but he is out

17 now. He served a couple of months.

18 THE COURT: Did you visit him in jail?

19 PROSPECTIVE JUROR: No.

20 THE COURT: And how is he doing now?

21 PROSPECTIVE JUROR: He is okay.

22 THE COURT: No problems?

23 PROSPECTIVE JUROR: No. He is married, has kids,

24 a wife.

25 THE COURT: Was he the only one arrested, or was

Proceedings

1 anyone arrested with him?

2 PROSPECTIVE JUROR: I don't know the details of  
3 the case.

4 THE COURT: Do you think that he was treated  
5 fairly or unfairly by the criminal justice system? Do you  
6 think he was treated fairly or unfairly?

7 PROSPECTIVE JUROR: Unfair because kids, they  
8 fight, they tease and, you know.

9 THE COURT: Okay. Was the person hurt badly do  
10 you know?

11 PROSPECTIVE JUROR: No. No.

12 THE COURT: No?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Was it just a fight with fists?

15 PROSPECTIVE JUROR: It was a fist fight.

16 THE COURT: No weapons?

17 PROSPECTIVE JUROR: Probably a knife I think.

18 THE COURT: A knife?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Your nephew had a knife?

21 PROSPECTIVE JUROR: I think so, yeah.

22 THE COURT: And did he tell you that he didn't do  
23 it?

24 PROSPECTIVE JUROR: No, I didn't talk. No. I  
25 don't know anything about the story. No.



Proceedings

1 THE COURT: So, why do you think he was treated  
2 unfairly?

3 PROSPECTIVE JUROR: When you go to school kids,  
4 they fight, they tease you and stuff like that.

5 THE COURT: They were teasing him?

6 PROSPECTIVE JUROR: Black boys, yes.

7 THE COURT: Do you think what happened to your  
8 nephew might give you a problem sitting as a juror here?

9 PROSPECTIVE JUROR: Not really.

10 THE COURT: You could be fair to both sides?

11 PROSPECTIVE JUROR: Yeah, but I have a problem by  
12 myself. I'm using lexapro, and I'm like nervous and  
13 anxious, anxiety problem.

14 THE COURT: Oh, are you feeling anxious now?

15 PROSPECTIVE JUROR: Yes. Nervous and -- yeah.

16 THE COURT: Do you think that would give you a  
17 problem paying attention here?

18 PROSPECTIVE JUROR: Yes. Yes.

19 THE COURT: You would be very nervous and anxious?

20 PROSPECTIVE JUROR: I am nervous, yes.

21 THE COURT: We don't want you to get sick. We are  
22 going to excuse you.

23 PROSPECTIVE JUROR: Thank you.

24 THE COURT: Thank you for your honesty. Excused  
25 from jury duty.

Proceedings

1 Miss Singh is excused consent of both sides?

2 MR. ROSENBLATT: Yes.

3 MR. BANDELLI: Yes.

4 THE COURT: Miss Martinez.

5 PROSPECTIVE JUROR: Yes. I've been arrested  
6 before. I've been arrested before. I didn't know if it was  
7 a misdemeanor or a felony or both in the same.

8 THE COURT: When were you arrested?

9 PROSPECTIVE JUROR: 2005 July, Atlanta, Georgia.

10 THE COURT: What were you charged with?

11 PROSPECTIVE JUROR: DUI.

12 THE COURT: Were you involved in an accident or a  
13 traffic stop?

14 PROSPECTIVE JUROR: No. A traffic stop.

15 THE COURT: What happened to your case?

16 PROSPECTIVE JUROR: I pleaded guilty, and I served  
17 my time not in the jail but, I mean, you know, like I did  
18 community service and all.

19 THE COURT: Were you going to school?

20 PROSPECTIVE JUROR: I paid my fines.

21 THE COURT: Were you going to school down there?

22 PROSPECTIVE JUROR: No. I was working.

23 THE COURT: Do you think they treated you fairly  
24 down there?

25 PROSPECTIVE JUROR: Yes, sir.

Proceedings

1 THE COURT: No bad feelings towards law  
2 enforcement?

3 PROSPECTIVE JUROR: Not a problem. No, not at  
4 all.

5 THE COURT: Can you be fair to both sides?

6 PROSPECTIVE JUROR: Absolutely.

7 THE COURT: Thank you, Miss Martinez.

8 (In open court.)

9 THE COURT: Anyone else have their hand up?  
10 Mr. Rahman, come up.

11 (The following proceedings took place at  
12 side-bar.)

13 THE COURT: How are you this afternoon?

14 PROSPECTIVE JUROR: I have a doctor appointment,  
15 endoscopy, tomorrow morning.

16 THE COURT: Endoscopy tomorrow morning?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Well, that's important. We don't want  
19 you to miss that. Okay. We are going to excuse you.  
20 Excused from jury duty.

21 Mr. Rahman is excused consent of both sides?

22 MR. ROSENBLATT: Yes.

23 MR. BANDELLI: Yes.

24 (In open court.)

25 THE COURT: Ladies and gentlemen, during the

## Proceedings

1 course of the trial every time jurors leave the courtroom I  
2 have to give certain, what we call, admissions. They are  
3 that you are not to discuss this case among yourselves or  
4 with anyone else. If anyone tries to discuss it with you,  
5 you are to bring it to my attention immediately. You are  
6 not to visit any location that's been mentioned so far, and  
7 you are not to form any opinion as to whether or not you  
8 feel the defendant is guilty or not guilty of the crimes  
9 with which he is charged.

10 We are going to recess for the evening. We are  
11 going to resume jury selection tomorrow morning at 9:30.  
12 Follow the instruction of the court officers. Don't anyone  
13 start moving around. If you should see any of the parties  
14 in the hallway or in the elevator or out in the street,  
15 don't try to engage them in any conversation because, for  
16 obvious reasons, they are not allowed to talk to jurors  
17 during the course of the case that they are trying. You all  
18 understand that?

19 Have a good evening. Get home safely. Follow the  
20 instruction of the court officer.

21 (Panel of prospective jurors exits the courtroom.)

22 (Continued on next page.)  
23  
24  
25

Proceedings

1 THE COURT: Any matters before we recess?

2 MR. BANDELLI: No.

3 MR. ROSENBLATT: I have none.

4 THE COURT: All right. Try to get here by quarter  
5 to ten. Have a good evening.

6 \* \* \*

7 (Whereupon, the trial was adjourned to Wednesday,  
8 July 7, 2010.)

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1 SUPREME COURT OF THE STATE OF NEW YORK.

2 COUNTY OF QUEENS: CRIMINAL TERM: PART TAP-D

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK : Indictment  
: No. 2065/08

5 -against-

6 HAROLD GOPAUL,

7 Defendant. : CRM SX ACT 1

8 -----X JURY TRIAL

9 125-01 Queens Boulevard  
10 Kew Gardens, New York  
11 July 7, 2010

12 B e f o r e:

13 HONORABLE GREGORY L. LASAK,  
14 Supreme Court Justice

15 A p p e a r a n c e s:

16 HONORABLE RICHARD A. BROWN  
17 District Attorney, Queens County  
BY: JARED ROSENBLATT, ESQ.

18 STANFORD BANDELLI, ESQ.  
19 Attorney for Defendant  
20 16 Court Street  
21 Brooklyn, New York

22 \* \* \*

23 SHERYL FITZPATRICK, RPR CSR  
24 Official Court Reporter

25

## Proceedings

1 THE CLERK: Case on trial, People versus Harold  
2 Gopaul. Let the record reflect the defendant is before the  
3 Court.

4 Counsel, your appearances, please.

5 MR. BANDELLI: Stanford Bandelli on behalf of  
6 Harold Gopaul.

7 Good morning.

8 MR. ROSENBLATT: For the People Assistant District  
9 Attorney Jared Rosenblatt.

10 Your Honor, I'm turning over one additional page  
11 of notes from ADA Hughes to Mr. Bandelli.

12 MR. BANDELLI: Judge, I had an opportunity to go  
13 over some of the stuff that Assistant DA Rosenblatt provided  
14 yesterday. It's about 3 or 400 pages, so I can't say that,  
15 you know, it's everything that I need, but I will note this.  
16 It looks like there are three or four pages that they  
17 provided from ACS, and my understanding, based upon my  
18 experience with these things, is that there is usually a  
19 substantial amount more that's done in terms of the  
20 investigator's reports and progress notes, etc., etc., and I  
21 believe based upon my correspondence from Barbara Mandel,  
22 who is counsel for ACS, that a package was sent to this  
23 Court. So, I'm still going to need that stuff before the  
24 kid takes the stand.

25 The other thing is there was, I guess, a log

## Proceedings

1 report from the precinct that was turned over for the date  
2 that my client had surrendered himself or actually didn't  
3 know he was surrendering himself at the time but when he  
4 showed up at the precinct. There has been an issue all  
5 along, apparently this was going on in Nassau also, about  
6 who was the officer that actually arrested him and how long  
7 was he there before the detective, Detective Shulman,  
8 questioned him; and what I received from ADA Rosenblatt in  
9 that package was a log report for the date that he came in,  
10 but it's only from, I guess, 8 o'clock in the morning on,  
11 which would be after pretty much everything happened.

12 So, the part of the log report that's really  
13 critical to the defense of Mr. Gopaul is the part of the log  
14 report that precedes that; in other words, from midnight on.  
15 Apparently the complainant came in after midnight or just  
16 before midnight, and again there is a question mark as to  
17 the time that my client got there.

18 So, while I appreciate that he turned over the one  
19 page, the significant information in terms of the defense is  
20 contained on the page that precedes that page. So, I would  
21 ask that they make best efforts to obtain that and turn it  
22 over to me.

23 MR. ROSENBLATT: Judge, just so I'm clear, your  
24 Honor, the logbook --

25 THE COURT: You got a problem with your feet?



Proceedings

1 MR. ROSENBLATT: No, your Honor. My apologies.

2 The logbook that was turned over is dated 0558  
3 through 0845, and counsel is requesting from midnight to  
4 0558 from June 23 just so I understand correctly.

5 THE COURT: You just said "date" 0558. You mean  
6 the time?

7 MR. ROSENBLATT: The time was 0558.

8 THE COURT: On June 23.

9 MR. ROSENBLATT: No. The log I turn over is  
10 June 24, 2008. The time 05:58 through 08:45.

11 THE COURT: What was your question, Mr. Bandelli?  
12 You want to know who arrested your client? Didn't you have  
13 a hearing on this case?

14 MR. BANDELLI: Just so you understand, it's kind  
15 of a unique set of circumstances. It might shed some  
16 insight for your Honor. The complainant had gone to the  
17 precinct. She was brought there by neighbors. My client  
18 showed up looking for her when she wasn't at home. When he  
19 arrived at the precinct sometime after midnight, the  
20 investigation had already started. He was looking to file a  
21 missing person's report, and he gets arrested, and there are  
22 allegations that he was roughed up by some of the police  
23 officers, and he has testified to that at a suppression  
24 hearing.

25 THE COURT: What precinct is it?

## Proceedings

1 MR. BANDELLI: It's the 105, right?

2 MR. ROSENBLATT: Yes.

3 MR. BANDELLI: What had happened, Judge Lasak, is  
4 that while his case was being tried in Nassau County, his  
5 attorney had requested that the judge out there, Judge  
6 McCormick, turn over -- have the DA turn over the log  
7 report, which the judge ordered. The only thing that I have  
8 though from ADA Rosenblatt, and I don't have it from the  
9 other case either or from the other defense attorney, is the  
10 time after everything had happened. In other words, that  
11 time between midnight and 6:00 in the morning isn't there.  
12 I know --

13 THE COURT: On what date? June 24?

14 MR. BANDELLI: Yes. It would be June 24, Judge.

15 THE COURT: What log book are you talking about?  
16 The detective's sign in? The movement log in the  
17 detective's --

18 MR. BANDELLI: It's the one that the desk sergeant  
19 has when you first come in. They have to log everybody who  
20 first comes into the place. It's going to list on that  
21 logbook who is working and, you know, what happened in terms  
22 of people coming into the precinct, so --

23 THE COURT: You want the sergeant's desk book?

24 MR. BANDELLI: Yes. Essentially that's -- I think  
25 that's the one that's going to answer the question.

Proceedings

1 THE COURT: Is that the page you turned over?

2 MR. ROSENBLATT: I turned over, correct, that  
3 page.

4 THE COURT: Turn over the previous six hours.

5 MR. ROSENBLATT: I was just asking what he wants.  
6 Not a problem.

7 MR. BANDELLI: Thank you, Judge.

8 THE COURT: Anything else?

9 MR. BANDELLI: With the exception of the ACS  
10 records, that's all I could think of at this time.

11 THE COURT: I can have my clerk check the 7th  
12 floor to see if those records were delivered up there.

13 MR. BANDELLI: Thank you, sir.

14 THE COURT: Bring in jury panel, please.

15 MR. ROSENBLATT: May I just briefly look at the  
16 court board?

17 THE COURT: You want the board?

18 MR. ROSENBLATT: Please.

19 THE COURT: Hand this to the DA.

20 MR. ROSENBLATT: Thank you, your Honor.

21 THE COURT: You're welcome.

22 (Panel of prospective jurors enters the  
23 courtroom.)

24 THE CLERK: Case on trial. All parties are  
25 present, your Honor.

Proceedings

1                   Zalena Saliman, first name Z-a-l-e-n-a, last name  
2                   S-a-l-i-m-a-n, seat number four, please.

3                   Mary Helen McCarthy, M-c-c-a-r-t-h-y. Seat number  
4                   11, please.

5                   THE COURT: Good morning, ladies and gentlemen.  
6                   We will now continue with the jury selection.

7                   Miss Saliman and Miss McCarthy, did you both hear  
8                   those three basic principles of law I stated yesterday?

9                   PROSPECTIVE JUROR: Yes.

10                  PROSPECTIVE JUROR: Yes.

11                  THE COURT: Either of you have a problem  
12                  understanding them?

13                  PROSPECTIVE JUROR: No.

14                  PROSPECTIVE JUROR: No.

15                  THE COURT: Either of you have a problem following  
16                  them?

17                  PROSPECTIVE JUROR: No.

18                  PROSPECTIVE JUROR: No.

19                  THE COURT: Either of you ever served as a juror  
20                  before?

21                  PROSPECTIVE JUROR: No.

22                  PROSPECTIVE JUROR: No.

23                  THE COURT: Either of you been the victim of a  
24                  crime?

25                  PROSPECTIVE JUROR: No.

Proceedings

1 THE COURT: You are thinking about it?

2 PROSPECTIVE JUROR: My mom, yes.

3 THE COURT: Have you ever been the victim of a  
4 crime?

5 PROSPECTIVE JUROR: No.

6 THE COURT: And either of you or anyone close to  
7 you ever been arrested or accused of a crime?

8 PROSPECTIVE JUROR: No.

9 PROSPECTIVE JUROR: No.

10 THE COURT: You are all caught up.

11 Now I ask all of you the fact that the charges  
12 involve -- they are of a sexual nature involving a family  
13 member, that wouldn't give you a problem sitting on this  
14 jury; would it?

15 Give you a problem, Miss Saliman?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Come up.

18 (The following proceedings took place at  
19 side-bar:)

20 THE COURT: What would be your problem?

21 PROSPECTIVE JUROR: My mom was raped.

22 THE COURT: Your mother?

23 PROSPECTIVE JUROR: By two men, yeah. They broke  
24 in the home.

25 THE COURT: I'm sorry.

Proceedings

1 PROSPECTIVE JUROR: She was raped at knife point.

2 THE COURT: How long ago did this happen?

3 PROSPECTIVE JUROR: 24 years ago.

4 THE COURT: Where did it happen?

5 PROSPECTIVE JUROR: At home.

6 THE COURT: Where is home? Queens?

7 PROSPECTIVE JUROR: Guyana.

8 THE COURT: All right. We are going to excuse you  
9 from this case. Okay? I'm sorry we brought up a bad  
10 memory. We are going to have you sit on civil cases only.  
11 Go back to central jury. Thank you for your honesty.

12 Miss Saliman is excused consent of both sides?

13 MR. ROSENBLATT: Yes.

14 MR. BANDELLI: Yes.

15 (In open court.)

16 THE COURT: Fill that seat, please.

17 THE CLERK: Dana M. Caraballo, C-a-r-a-b-a-l-l-o,  
18 seat number 4, please.

19 THE COURT: Good morning, Miss Caraballo.

20 PROSPECTIVE JUROR: Good morning.

21 THE COURT: Were you able to hear these three  
22 basic principles?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Any problem following them?

25 PROSPECTIVE JUROR: No.

Proceedings

1 THE COURT: Ever serve as a juror before?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Ever been the victim of a crime?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Have you or anyone close to you ever  
6 been arrested or accused of a crime?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: All right. Come on up, please, ma'am.

9 (The following proceedings took place at  
10 side-bar:)

11 THE COURT: Who do you know that was arrested?

12 PROSPECTIVE JUROR: One of my friends got arrested  
13 for DWI.

14 THE COURT: DWI?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: How long ago?

17 PROSPECTIVE JUROR: Like a couple of months ago,  
18 and then my father was reported for domestic violence, but  
19 he wasn't arrested.

20 THE COURT: Okay. Now, your friend -- was your  
21 friend involved in an accident, or was it just a traffic  
22 stop?

23 PROSPECTIVE JUROR: It was a traffic stop, and  
24 then I had another one that got caught with weed with him.

25 THE COURT: He had what?

Proceedings

1 PROSPECTIVE JUROR: Weed with him.

2 THE COURT: Weed with him.

3 His case is still pending?

4 PROSPECTIVE JUROR: He is on probation.

5 THE COURT: On probation. All right.

6 Is he a good friend of yours?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Boyfriend?

9 PROSPECTIVE JUROR: So so.

10 THE COURT: Do you think he was treated fairly or  
11 unfairly by the police?

12 PROSPECTIVE JUROR: I would say fairly.

13 THE COURT: Fairly?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: He had weed on him, right?

16 PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: He was drinking?

18 PROSPECTIVE JUROR: No. That was another one.

19 THE COURT: Another one?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: How many times was he arrested?

22 Twice?

23 PROSPECTIVE JUROR: Which one? The one -- the DWI  
24 or the weed one?

25 THE COURT: Is that the same person or --



Proceedings

1 PROSPECTIVE JUROR: It's two different people.

2 THE COURT: Okay. How long ago was the weed?

3 PROSPECTIVE JUROR: Like I would say the end of  
4 last year.

5 THE COURT: Last year?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: He is on probation?

8 PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: What about the DWI?

10 PROSPECTIVE JUROR: He is in jail till December.

11 THE COURT: Till December?

12 PROSPECTIVE JUROR: He got caught in Nassau  
13 County.

14 THE COURT: Oh, Nassau County.

15 Do you think that he was treated fairly?

16 PROSPECTIVE JUROR: I guess so, yeah.

17 THE COURT: And the other fellow, you think he was  
18 treated fairly, too?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: With the weed.

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: Was he in the car?

23 PROSPECTIVE JUROR: Yeah. He was driving.

24 THE COURT: And your father, when was he reported  
25 for domestic violence?

Proceedings

1 PROSPECTIVE JUROR: 2005, and he was reported  
2 previously before that with his ex-wife. That was in Nassau  
3 County or Suffolk, one of them.

4 THE COURT: Okay. How is he doing now?

5 PROSPECTIVE JUROR: He is still crazy.

6 THE COURT: You are not living with him I take it.

7 PROSPECTIVE JUROR: No.

8 THE COURT: Do you think he was treated fairly by  
9 the criminal justice system?

10 PROSPECTIVE JUROR: No. I think my mom should  
11 have locked him up.

12 THE COURT: Anything about all of those incidents  
13 that would give you a problem sitting as a fair juror here?

14 PROSPECTIVE JUROR: With this one, yeah. I  
15 already disagree with his. I already think he guilty.

16 THE COURT: You haven't heard anything.

17 PROSPECTIVE JUROR: I know, but you said third  
18 degree charges. That's a high charge.

19 THE COURT: Okay. Well, if you already feel he is  
20 guilty, then you couldn't be fair. We are going to have you  
21 sit on civil cases. Okay?

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: We appreciate your honesty. Have a  
24 nice day. Follow the instruction of the court officer.

25 Miss Caraballo is excused consent of both sides?

Proceedings

1 MR. ROSENBLATT: Yes.

2 MR. BANDELLI: Yes.

3 (In open court.)

4 THE CLERK: Ira Friedman, F-r-i-e-d-m-a-n, seat  
5 number four, please.

6 THE COURT: Good morning, Mr. Friedman.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: Were you able to hear the three basic  
9 principles of law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Any problem following them?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Ever been the victim of a crime?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: What happened to you?

16 PROSPECTIVE JUROR: Four break-ins. Three car  
17 thefts.

18 THE COURT: The four break-ins, when was the most  
19 recent one?

20 PROSPECTIVE JUROR: Nothing within the last ten  
21 years.

22 THE COURT: Did you move to another place?

23 PROSPECTIVE JUROR: I live in Queens. Yeah. They  
24 were all different places in Queens.

25 THE COURT: Did you call the police on those?

Proceedings

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Anyone arrested?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Okay. I'm sure you would agree with  
5 me that they have nothing to do with this case.

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: You could be fair to both sides?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: All right, and have you or anyone  
10 close to you ever been arrested or accused of a crime?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Ever been a juror before on a criminal  
13 case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: You are all caught up.

16 I think I asked the entire panel the charges here  
17 involve -- they are of a sexual nature involving a family  
18 member. Anyone have a problem sitting on a case like that?

19 Mr. Varghese.

20 PROSPECTIVE JUROR: Yes. Can we speak in private?

21 THE COURT: Sure. Come up.

22 (The following proceedings took place at  
23 side-bar:)

24 PROSPECTIVE JUROR: The locations where you  
25 stated --

Proceedings

1 THE COURT: I can't hear you.

2 PROSPECTIVE JUROR: The locations where you  
3 stated, that's where I live, and my sister goes to school in  
4 that area, and I don't feel comfortable being involved in  
5 this case. I feel like I'll definitely be biased towards  
6 convicting him. This is around my area and my sister --

7 THE COURT: You haven't heard anything about the  
8 case.

9 PROSPECTIVE JUROR: I'm sorry.

10 THE COURT: You haven't heard anything.

11 PROSPECTIVE JUROR: Well, it's about sexual abuse.  
12 Isn't that what you said the charges are?

13 THE COURT: I also said the defendant is presumed  
14 innocent.

15 PROSPECTIVE JUROR: Yes, but that's what I'm  
16 saying. I feel like I won't judge fairly, especially if  
17 it's around my sister.

18 THE COURT: Because it's near your neighborhood  
19 you couldn't be fair?

20 PROSPECTIVE JUROR: Because I recognize the  
21 street, and that's one block away from where my sister goes  
22 to school.

23 THE COURT: You couldn't be fair?

24 PROSPECTIVE JUROR: I can't be fair in this case.

25 THE COURT: We are going to have you sit on civil

Proceedings

1 cases. Follow the instructions of the court officer. Thank  
2 you for your honesty.

3 Miss Chen, come up here, please. Come up. Don't  
4 be afraid. I understand that you told one of the court  
5 officers that you were a student.

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And when do you have to go to class?

8 PROSPECTIVE JUROR: I have class Monday,  
9 Wednesday, Thursday from 10:30 to 12:10, and then I have  
10 class from 1:20 to 3 o'clock for the next two weeks until  
11 July 22. That's when classes end.

12 THE COURT: All right, and you can't miss those  
13 classes, right?

14 PROSPECTIVE JUROR: Well, I have two quizzes left  
15 and two homeworks to hand in, two exams and two finals.

16 THE COURT: We are going to excuse you from jury  
17 duty --

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: -- so you can take care of your school  
20 matters. Good luck to you, Miss Chen.

21 PROSPECTIVE JUROR: Thank you.

22 THE COURT: Miss Chen is excused consent of both  
23 sides?

24 MR. ROSENBLATT: Yes.

25 MR. BANDELLI: Yes.

Proceedings

1 THE COURT: Off the record.

2 (Discussion held off the record.)

3 (In open court.)

4 THE COURT: Fill those two seats, please.

5 THE CLERK: Kevin L. Pegram, P-e-g-r-a-m, please  
6 take seat number six.

7 Robert Ramos, R-a-m-o-s, please take seat number  
8 seven.

9 THE COURT: Good morning, Mr. Pegram.

10 PROSPECTIVE JUROR: Good morning.

11 THE COURT: And Mr. Ramos.

12 PROSPECTIVE JUROR: Good morning.

13 THE COURT: Did you both hear those three basic  
14 principles?

15 PROSPECTIVE JUROR: Yes.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Either of have you a problem following  
18 them?

19 PROSPECTIVE JUROR: No.

20 PROSPECTIVE JUROR: No.

21 THE COURT: Either of you served as a juror before  
22 in a criminal case?

23 PROSPECTIVE JUROR: Yes.

24 PROSPECTIVE JUROR: Grand jury.

25 THE COURT: All right. How long ago was it,

Proceedings

1 Mr. Pegram?

2 PROSPECTIVE JUROR: I guess about 15 years ago.

3 THE COURT: All right, and without telling me what  
4 it was, were you able to reach a verdict?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Were you satisfied with that verdict?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: What was that person charged with?

9 PROSPECTIVE JUROR: It was drunk driving.

10 THE COURT: Pardon me?

11 PROSPECTIVE JUROR: They seemed to all be drunk  
12 driving crimes back then.

13 THE COURT: Thank you, and you served on a grand  
14 jury before?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: All right. How long ago?

17 PROSPECTIVE JUROR: Six to eight years ago.

18 THE COURT: All right, and that's a whole  
19 different formality than this.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Thank you very much.

22 Have either of you or anyone close to you ever  
23 been arrested or accused of a crime?

24 PROSPECTIVE JUROR: My uncles.

25 THE COURT: All right. Come up, Mr. Ramos.



Proceedings

1 (The following proceedings took place at  
2 side-bar:)

3 THE COURT: Did you say your uncles?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: How many of them?

6 PROSPECTIVE JUROR: Two.

7 THE COURT: How long ago?

8 PROSPECTIVE JUROR: They just got released within  
9 the last five years.

10 THE COURT: What were they charged with?

11 PROSPECTIVE JUROR: One was charged with attempted  
12 murder. The other one was charged with drunk driving.

13 THE COURT: All right. What county was that?

14 PROSPECTIVE JUROR: Both New York.

15 THE COURT: Manhattan?

16 PROSPECTIVE JUROR: I think so.

17 THE COURT: Okay. Did they go to trial or did  
18 they plead guilty?

19 PROSPECTIVE JUROR: They went to trial.

20 THE COURT: Okay, and how many years ago was that?

21 PROSPECTIVE JUROR: They served a long time, so  
22 probably over ten years ago.

23 THE COURT: Okay, and do you feel that they were  
24 treated fairly or unfairly by the system?

25 PROSPECTIVE JUROR: They did the crime. They did

Proceedings

1 the time.

2 THE COURT: Okay. No bad feelings towards the  
3 Police Department?

4 PROSPECTIVE JUROR: No bad feelings.

5 THE COURT: Can you be fair to both sides?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Thank you.

8 (In open court.)

9 THE COURT: Mr. Pegram and Ramos, either of you  
10 been the victim crime?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: What happened to you?

13 PROSPECTIVE JUROR: Two car thefts.

14 THE COURT: That's it?

15 PROSPECTIVE JUROR: Yeah.

16 THE COURT: All right. Did you call the police?

17 PROSPECTIVE JUROR: They recovered the car both  
18 times. Well, I don't know. The car was recovered. Let's  
19 put it that way.

20 THE COURT: Okay. That wouldn't give you a  
21 problem sitting as a fair juror here; would it?

22 PROSPECTIVE JUROR: No.

23 THE COURT: What happened to you, Mr. Ramos?

24 PROSPECTIVE JUROR: I got mugged twice.

25 THE COURT: What?

Proceedings

1 PROSPECTIVE JUROR: I got mugged twice.

2 THE COURT: All right. Did you call the police?

3 PROSPECTIVE JUROR: Yes, I did.

4 THE COURT: Was either of those with a weapon?

5 PROSPECTIVE JUROR: Yes, it was.

6 THE COURT: Out on the street or in a business?

7 PROSPECTIVE JUROR: One was in a street and one  
8 was in a business.

9 THE COURT: How many years ago?

10 PROSPECTIVE JUROR: The business was over ten  
11 years. Both over ten years ago.

12 THE COURT: What type of business?

13 PROSPECTIVE JUROR: Retail.

14 THE COURT: Okay. Was anyone arrested?

15 PROSPECTIVE JUROR: Yes, for the retail. No, for  
16 the other.

17 THE COURT: Did you have to testify?

18 PROSPECTIVE JUROR: No. There were a lot of  
19 witnesses.

20 THE COURT: As you see, we come into this  
21 courtroom with various experiences, hopefully most of them  
22 good, and some of them bad like what happened to you,  
23 Mr. Ramos. We don't expect you to forget about them. All  
24 we ask is that you place your memory of them aside and base  
25 your verdict only on the evidence that you see and hear in

## Proceedings

1 this courtroom because otherwise that wouldn't be fair. You  
2 would have no problem doing that; would you?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Thank you.

5 Next question. Anyone here in the jury box or  
6 anyone very close to you, whether a relative or a friend  
7 work in law enforcement? That is has a job as a police  
8 officer, correction officer, court officer, FBI agent, DA.  
9 Anyone here or anyone close to you have any jobs like that?  
10 Please raise your hand.

11 Miss McCarthy.

12 PROSPECTIVE JUROR: My brother works for Assistant  
13 Commissioner Ray Kelly. My cousin is a federal marshal.

14 THE COURT: Your brother is a police officer?

15 PROSPECTIVE JUROR: He is.

16 THE COURT: And the reason I ask that is that we  
17 may have, as you can see from the list, a police officer  
18 testifying here. At the end of the case I give certain,  
19 what we call you, instructions on the law, and one of them  
20 is that you are to evaluate a police officer's testimony the  
21 same as a civilian. That is if someone comes up here  
22 wearing a uniform or a badge, you are not going to  
23 automatically believe everything they say, and you are not  
24 automatically going to disbelieve everything they say. You  
25 are going to sit, listen to what they have to say and make

Proceedings

1 your determination on it. You would have no problem doing  
2 that; would you?

3 PROSPECTIVE JUROR: (Shakes head.)

4 THE COURT: You have to speak.

5 PROSPECTIVE JUROR: Sorry.

6 No.

7 THE COURT: Anyone else have their hand up?

8 Now we come to the second part of my questions  
9 which is your background. I'm going to ask you all the same  
10 questions, so that by the time I get to you, Mr. Friedman,  
11 you will have all of the information and everyone after you  
12 will have all of the information so I don't have to ask  
13 everyone the same questions. Okay?

14 Miss Rudolph, what part of Queens do you live in?

15 PROSPECTIVE JUROR: Bayside.

16 THE COURT: How long have you lived in Bayside?

17 PROSPECTIVE JUROR: Three years.

18 THE COURT: Where did you live before that?

19 PROSPECTIVE JUROR: Manhattan.

20 THE COURT: For how long in Manhattan?

21 PROSPECTIVE JUROR: Five years.

22 THE COURT: Where did you live before that?

23 PROSPECTIVE JUROR: Yonkers.

24 THE COURT: All right. Is that where you are  
25 from?

Proceedings

1 PROSPECTIVE JUROR: No. I'm from upstate New  
2 York.

3 THE COURT: Upstate?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: What city upstate?

6 PROSPECTIVE JUROR: Middletown, New York.

7 THE COURT: Marital status? Any children?

8 PROSPECTIVE JUROR: Married and an infant son four  
9 and a half months.

10 THE COURT: Are you working?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: What do you do?

13 PROSPECTIVE JUROR: I'm a claims adjuster for an  
14 insurance company.

15 THE COURT: Okay, and do you own your own home or  
16 rent in Bayside?

17 PROSPECTIVE JUROR: Own.

18 THE COURT: Thank you very much.

19 Mr. Leong, what part of Queens do you live in?

20 PROSPECTIVE JUROR: East Elmhurst.

21 THE COURT: How long have you lived in East  
22 Elmhurst?

23 PROSPECTIVE JUROR: Like 20 years.

24 THE COURT: Marital status. Any children?

25 PROSPECTIVE JUROR: No.

Proceedings

1 THE COURT: Okay, and are you working or going to  
2 school?

3 PROSPECTIVE JUROR: School.

4 THE COURT: What are you studying?

5 PROSPECTIVE JUROR: Accounting.

6 THE COURT: Accounting?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay. I'll take this opportunity you  
9 deal with balance sheets, correct?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: In accounting --

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: -- two columns. One is assets. One  
14 is liabilities.

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Are you following me, Mr. Leong?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: At the bottom of those columns you  
19 have numbers, right?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: What are they supposed to do?

22 PROSPECTIVE JUROR: They are supposed to add up.

23 THE COURT: They are supposed to equal?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: How many years have you been studying

Proceedings

1 accounting?

2 PROSPECTIVE JUROR: I just started.

3 THE COURT: Okay. I didn't mean to pick on you.  
4 I don't mean to pick on you. I just want to make a point.

5 Those columns have to equal. Assets have to equal  
6 liability otherwise you have to find out what the problem  
7 is. You have to go back over your numbers, right?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: She is taking down everything you say.  
10 Okay?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: That is proof to a mathematical  
13 certainty. Everybody understand that?

14 As I said, the second basic principle of law is  
15 that the DA has the burden to prove the defendant guilty  
16 beyond a reasonable doubt. I'll explain it to you later on,  
17 but it's not proof to a mathematical certainty. Okay? You  
18 all understand that?

19 In dealing with human affairs, we know nothing  
20 with absolute certainty. I'll explain that to you again at  
21 the end of the case.

22 I take it you live with your parents.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you. I didn't mean to pick on  
25 you. Okay?



Proceedings

1 Mr. Falci, what part of Queens do you live in?

2 PROSPECTIVE JUROR: Middle Village.

3 THE COURT: How long?

4 PROSPECTIVE JUROR: Twelve years.

5 THE COURT: Where did you live before that?

6 PROSPECTIVE JUROR: Ridgewood.

7 THE COURT: The Brooklyn side?

8 PROSPECTIVE JUROR: Yeah. Near closer to Brooklyn  
9 side, yeah.

10 THE COURT: And marital status. Any children?

11 PROSPECTIVE JUROR: No. Single.

12 THE COURT: Okay, and are you working?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: What do you do?

15 PROSPECTIVE JUROR: Peer administrator for Tishman  
16 Speyer.

17 THE COURT: Do you own your own home or rent?

18 PROSPECTIVE JUROR: Live with my parents. They  
19 own a home.

20 THE COURT: Thank you.

21 Mr. Friedman.

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: You heard the questions. Give me the  
24 information.

25 PROSPECTIVE JUROR: I might be able to do that.

Proceedings

1 Jamaica Estates/Kew Gardens. Single. No children. Not  
2 working now.

3 THE COURT: When you do work, what do you do?

4 PROSPECTIVE JUROR: Manufacture custom-made window  
5 treatments.

6 Did I leave anything out?

7 THE COURT: Own your own home or rent?

8 PROSPECTIVE JUROR: Own.

9 THE COURT: Okay. Very good. You did good,  
10 Mr. Friedman.

11 Miss Mohammed.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Go ahead.

14 PROSPECTIVE JUROR: I live in Richmond Hill.

15 THE COURT: Speak louder.

16 PROSPECTIVE JUROR: I live in Richmond Hill.

17 THE COURT: Good.

18 PROSPECTIVE JUROR: I work at White Castle. Two  
19 children.

20 MR. BANDELLI: Where does she work?

21 THE COURT: Lives in Richmond Hill. She owns her  
22 own house.

23 PROSPECTIVE JUROR: No. I rent. I have two girls  
24 and one boy.

25 THE COURT: Are you working?

Proceedings

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: What do you do?

3 PROSPECTIVE JUROR: I do team member from register  
4 to floor.

5 THE COURT: Okay. You said you rent, right?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay. Thank you, Miss Mohammed.

8 Mr. Pegram.

9 PROSPECTIVE JUROR: Live in Forest Hills Gardens.  
10 I own the home 12 years. Before that I lived in Hollis,  
11 Queens. I'm not married, but I live with a woman. I have  
12 for the last 20 years. You could say essentially I'm  
13 married.

14 THE COURT: We won't get into that.

15 PROSPECTIVE JUROR: I'm semi-retired. If I find a  
16 job, I would be unretired. So, I worked as a financial  
17 controller.

18 THE COURT: Okay. You covered everything. Thank  
19 you very much, sir.

20 Mr. Ramos.

21 PROSPECTIVE JUROR: I live in Elmhurst, Queens.  
22 I've been there for one year. Before that I lived in  
23 Jackson Height for one year. Before that I lived in south  
24 Richmond Hill for two years. I'm an engineer employed by  
25 Marriott. Also a fire safety director for them. I'm

Proceedings

1 single.

2 What else?

3 THE COURT: Own your own home or rent?

4 PROSPECTIVE JUROR: I rent.

5 THE COURT: Okay. You covered everything. Thank  
6 you.

7 Miss Martinez.

8 PROSPECTIVE JUROR: Hi. I live currently in Long  
9 Island City for the past three years. Before that I lived  
10 in Atlanta, Georgia for four. Originally from Miami,  
11 Florida before that.

12 I am a journalist for CNN. I've been with the  
13 company about eight years.

14 Single. No children, and I rent.

15 What else? I'm sorry.

16 THE COURT: You covered everything.

17 You are a journalist?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: What type of news do you cover?

20 PROSPECTIVE JUROR: Everything.

21 THE COURT: Everything?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Do you go on air?

24 PROSPECTIVE JUROR: It's behind the scenes.

25 THE COURT: Behind the scenes?

Proceedings

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Who is taking over for Larry King?

3 PROSPECTIVE JUROR: Right now they have a few, but  
4 I'm not allowed to say.

5 THE COURT: Thank you, Miss Martinez.

6 PROSPECTIVE JUROR: You are welcome.

7 THE COURT: Mr. Fishtein.

8 PROSPECTIVE JUROR: 20 years old. I live in  
9 Little Neck.

10 THE COURT: Did I ask anyone their ages? You are  
11 giving me too much information.

12 PROSPECTIVE JUROR: I live in Little Neck for 20  
13 years. I go to school, and I work also at Staples. I'm  
14 single, and I live with my parents.

15 THE COURT: What are you studying in school?

16 PROSPECTIVE JUROR: Now marketing and advertising.

17 THE COURT: Okay. Good luck to you.

18 PROSPECTIVE JUROR: Thank you.

19 THE COURT: Thank you.

20 Mr. Marks.

21 PROSPECTIVE JUROR: Yes. I live in Astoria. I  
22 have for the last five years. Prior to that I lived for a  
23 year in Nassau County in Long Beach. Prior to that I lived  
24 in Vancouver, Canada even though I'm originally from  
25 Manhattan.

Proceedings

1 THE COURT: You were born in Manhattan?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: How did you like Vancouver?

4 PROSPECTIVE JUROR: Nice.

5 THE COURT: How did you like Long Beach?

6 PROSPECTIVE JUROR: Also very nice. That's where  
7 I work now.

8 THE COURT: Okay. What do you do?

9 PROSPECTIVE JUROR: I work as an export manager  
10 for a company that manufactures medical devices. I've done  
11 that for the last six years. It's a family-owned business.

12 THE COURT: Do you rent or own?

13 PROSPECTIVE JUROR: Rent.

14 Single. No children.

15 THE COURT: Okay. Thank you, Mr. Marks.  
16 Miss McCarthy.

17 PROSPECTIVE JUROR: I'm from Jackson Heights.  
18 Been there my whole life. Kindergarten teacher. Engaged,  
19 and I rent an apartment.

20 THE COURT: All right. Do you teach in the city  
21 system?

22 PROSPECTIVE JUROR: No. Catholic schools.

23 THE COURT: In Jackson Heights?

24 PROSPECTIVE JUROR: Uh-huh.

25 THE COURT: St. Joan's.

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1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you very much.

3 Miss Lackhan.

4 PROSPECTIVE JUROR: I've lived in Queens for 15  
5 years. Prior to that I lived in Jamaica -- I'm sorry, in  
6 Richmond Hill. I'm single. Two children. I'm a customer  
7 care representative. I rent.

8 THE COURT: What is your occupation?

9 PROSPECTIVE JUROR: Customer care representative.

10 THE COURT: Thank you very much. That wasn't  
11 hard; was it?

12 Mr. Perez.

13 PROSPECTIVE JUROR: I lived in Flushing for about  
14 27 years. I lived in Forest Hills for about four or five  
15 years give or take. I was a public school teacher, but I  
16 quit, and I became -- well, I work like in an office in  
17 Queens College right now, the Office of Verging Technology  
18 because that's what I'm aiming for now, the studies I'm  
19 pursuing, and I am single. That's it.

20 THE COURT: All right. What level of school did  
21 you teach at?

22 PROSPECTIVE JUROR: I got my Masters in elementary  
23 ed, so I was an elementary school teacher like from  
24 kindergarten to sixth grade. Mainly I was a technology  
25 teacher.

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1 THE COURT: All right. How many years did you  
2 teach?

3 PROSPECTIVE JUROR: Full time about three and a  
4 half, and I did almost about ten years of subbing.

5 THE COURT: Didn't like it?

6 PROSPECTIVE JUROR: No. I finally decided I  
7 wanted to go with technology. That's why I'm in that office  
8 right now. Part of the time I work the help desk and the  
9 other half I do input/output work.

10 THE COURT: What type of field? What kind of  
11 technology did you say?

12 PROSPECTIVE JUROR: The Office of Emerging  
13 Technology. I help the technicians once in a while when  
14 they are short staffed. I go up and do requests.

15 THE COURT: All right. Very good. Thank you very  
16 much.

17 Miss Polanco.

18 PROSPECTIVE JUROR: I live in Flushing for five  
19 years. Prior to that I lived in another country. I'm a  
20 student, and I work as a retail sales associate. I'm  
21 single, no children, and I live with my parents.

22 THE COURT: All right. Where did you say you  
23 live?

24 PROSPECTIVE JUROR: Flushing.

25 THE COURT: What country are you from?



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1 PROSPECTIVE JUROR: Dominican Republic.

2 THE COURT: Thank you very much.

3 Mr. Pereira.

4 PROSPECTIVE JUROR: I live in Forest Hills 12  
5 years. Before that in India. Married. Two children.  
6 Presently working for New York City Transit.

7 THE COURT: What you to do with Transit?

8 PROSPECTIVE JUROR: I'm in engineering department  
9 for the signal railroad switches.

10 THE COURT: Thank you very much.

11 Did you say you own your own home?

12 PROSPECTIVE JUROR: Yes. Own, yes.

13 THE COURT: Thank you.

14 Mr. Lall.

15 PROSPECTIVE JUROR: I live in South Ozone Park 21  
16 years. Live with my parents. I'm a teller in a bank. Not  
17 married. No children.

18 THE COURT: All right. Thank you very much,  
19 Mr. Lall.

20 Mr. DA, you may inquire.

21 MR. ROSENBLATT: Thank you, your Honor.

22 Good morning. As the judge introduced me  
23 yesterday, my name is Jared Rosenblatt. I'm an attorney in  
24 the Special Victims Bureau, and I represent the People of  
25 the State of New York in the county of Queens. The purpose

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1 of jury selection is not to pry or embarrass you. We are  
2 just looking for a fair and impartial jury, both to the  
3 defendant and for the People.

4 As the judge already told you, if there is  
5 anything that comes up that is personal, raise your hand.  
6 Let us know, and we can approach at side bar. Those members  
7 in the back, soon you, too, will be seated here as you have  
8 seen.

9 I ask you to pay attention. Things that I'm  
10 saying to the ladies and gentlemen in the jury panel now  
11 will soon be asked of you, too.

12 The judge already told you that this case is  
13 different than many others that are looking for jurors in  
14 this courthouse today. The defendant, as the judge told  
15 you, is charged with sexually abusing his stepdaughter over  
16 a period of time.

17 THE COURT: Sustained. Let's not get into the  
18 facts.

19 MR. ROSENBLATT: Your job, if chosen as a juror in  
20 this case, is the same as if you were chosen as a juror in a  
21 case where the defendant is charged with stealing a hammer  
22 from Home Depot, robbery, assault. Every case the burden of  
23 proof is the same. Can you appreciate that?

24 PROSPECTIVE JUROR: Yes.

25 MR. ROSENBLATT: The burden of proof doesn't go up

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1 or down based on the nature of the charges.

2 Mr. Leong, do you understand that?

3 PROSPECTIVE JUROR: Yes.

4 MR. ROSENBLATT: Mr. Falci, the fact that the  
5 defendant is charged with the crimes that the judge told you  
6 about doesn't change the burden of proof. Can you  
7 appreciate that?

8 PROSPECTIVE JUROR: Yes.

9 MR. ROSENBLATT: Everyone here understand that?

10 Your job is to listen to the facts and make a  
11 decision, Is the witness telling the truth? Do you believe  
12 her? Does what she is telling you make out the crimes, the  
13 elements of the crimes that the judge is going to instruct  
14 you beyond a reasonable doubt to your satisfaction?

15 Miss McCarthy, can you do that?

16 PROSPECTIVE JUROR: Yes.

17 MR. ROSENBLATT: Mr. Friedman?

18 PROSPECTIVE JUROR: Yes.

19 MR. ROSENBLATT: Miss Martinez?

20 PROSPECTIVE JUROR: Yes.

21 MR. ROSENBLATT: Anyone here have any religious,  
22 moral or ethical beliefs that they feel they can't sit,  
23 listen to the facts and make a determination of the facts?  
24 Anyone here?

25 Now, how many people here have kids? Anybody have

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1 teenagers?

2 Miss Lackhan.

3 PROSPECTIVE JUROR: Yes.

4 MR. ROSENBLATT: How old are your children?

5 PROSPECTIVE JUROR: My eldest son is 14, and my  
6 youngest is four.

7 MR. ROSENBLATT: Four?

8 PROSPECTIVE JUROR: Yes.

9 MR. ROSENBLATT: You promise that notwithstanding  
10 the fact that you have a teenage kid, you could put that  
11 aside and judge this case fairly?

12 PROSPECTIVE JUROR: I will try.

13 MR. ROSENBLATT: You told the judge you can be  
14 fair before, correct?

15 PROSPECTIVE JUROR: Yes.

16 MR. ROSENBLATT: And you can be fair based upon  
17 your common sense and your life experiences, correct?

18 PROSPECTIVE JUROR: Yes.

19 MR. ROSENBLATT: Everyone here promise to use your  
20 God given common sense, your life experience and not walk  
21 into this courtroom and push that aside? And that's just  
22 what we are asking you to do, Miss Lackhan. I'm not asking  
23 you to disregard the testimony or not be sympathetic if  
24 that's how you feel, but when coming to -- reaching a  
25 verdict, you have to put sympathy and prejudice and emotion

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1       aside and just base it upon the facts. You can do that,  
2       right --

3               PROSPECTIVE JUROR: I can.

4               MR. ROSENBLATT: All right. Miss Martinez, I'm  
5       going to pick on you for a moment. You work in TV. How  
6       many people watch shows like Law and Order or CSI? Anybody?  
7       They are the top shows on TV. I'm sure somebody is watching  
8       them.

9               This isn't anything like television.  
10       Unfortunately for you, I'm not Jack McCoy or Denny Crane or  
11       your favorite TV lawyer. This is real life. TV is  
12       completely different than reality, right, Miss Martinez?

13              PROSPECTIVE JUROR: Correct.

14              MR. ROSENBLATT: In a courtroom -- how many people  
15       have ever been in a real courtroom? Only the two gentlemen  
16       who have been on grand jury and jury duty before.

17              Anybody here ever testified? Watched a trial?  
18       Been in a real courtroom before today?

19              This is totally unlike TV. TV, one of those shows  
20       like Law and Order, CSI, within an hour, if you take out  
21       commercials 40 minutes, the guilty are proven, the innocent  
22       are exonerated, and it's done through science, right?  
23       Sometimes they have that fancy purple light. They plug it  
24       into the computer. It prints out a receipt, and you know  
25       who did it.

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1 In this case you are going to hear from witnesses  
2 who get on the witness stand, tell you what they saw, what  
3 they heard. There is not going to be any scientific  
4 evidence. There is not going to be any DNA. No fancy  
5 lights. That science may exist. Some of it may be real,  
6 some of it may be fake that you see on TV, but you are not  
7 going to see any of it in this case.

8 In this case you are going to hear testimony. You  
9 are going to see physical evidence, and you are going to be  
10 asked to make a determination based on the testimony of  
11 witnesses and evidence that you see and hear without any use  
12 of science.

13 Mr. Marks, do you have any problem doing that?  
14 Anyone here think that listening to witnesses, without any  
15 use of science, anyone have a problem determining whether  
16 the witnesses are telling you the truth, whether they are  
17 lying, whether they are mistaken? Anyone going to have a  
18 problem with that? No. Okay.

19 Who here works alone? Anyone work alone?

20 Mr. Perez, when you are doing computer work, do  
21 you ever work on a computer by yourself?

22 PROSPECTIVE JUROR: Occasionally I do.

23 MR. ROSENBLATT: Mr. Friedman, I ask you to follow  
24 along as I talk to Mr. Perez. Okay?

25 PROSPECTIVE JUROR: Yes.

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1 MR. ROSENBLATT: Mr. Perez, you are working alone  
2 at night on a computer and an individual walks into the  
3 computer room where you are working by yourself. The lights  
4 are on, and a man approaches you with a purple tie, white  
5 shirt, wearing a suit and his hair is falling out real  
6 quick, receding hairline, about this tall (indicating).

7 He approaches you, and he points a gun at you and  
8 says, Give me your money, and you turn. You give the man  
9 your money, and the man walks out. You call the police.  
10 You describe the man. He was wearing a gray suit, a white  
11 shirt, purple tie, glasses, and the police come to you. You  
12 see him outside. He is walking to a car. You say, That's  
13 the man, and the police say to you, Mr. Perez, do you have  
14 any witnesses, and, Mr. Friedman, Mr. Perez says to the  
15 police, It's just me. That's the man. If you look at him,  
16 he has a gun. He has a hundred dollars in his pocket. It's  
17 mine, and the police say to him, Sorry, sir. You have no  
18 witnesses. Is that fair? Is that reasonable?

19 PROSPECTIVE JUROR: I'm not sure I understand.

20 MR. ROSENBLATT: The police are saying to  
21 Mr. Perez, Excuse me. I'm sorry, sir. We can't help you.  
22 If you have no other witnesses. It's just your word.  
23 That's not enough.

24 PROSPECTIVE JUROR: No.

25 MR. ROSENBLATT: Is that fair?

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1 PROSPECTIVE JUROR: No.

2 MR. ROSENBLATT: Do you think that's fair,  
3 Miss Mohammed?

4 PROSPECTIVE JUROR: No.

5 MR. ROSENBLATT: Mr. Pegram, do you think that's  
6 fair?

7 PROSPECTIVE JUROR: If he said he has a hundred  
8 dollars on him, anybody could have that. It's your word  
9 against his, but if he has a gun on him, it's not fair.

10 MR. ROSENBLATT: I'm saying is it fair, when  
11 Mr. Perez tells the police, That's the man, he says, Sorry,  
12 we can't help you. It's your word. You don't have any  
13 witnesses.

14 PROSPECTIVE JUROR: If he tells the cop he has a  
15 gun --

16 MR. ROSENBLATT: The cop says, I'm not willing to  
17 help. You have no witnesses.

18 PROSPECTIVE JUROR: That's a problem.

19 MR. ROSENBLATT: Mr. Ramos, do you think that's  
20 reasonable?

21 PROSPECTIVE JUROR: I think it's a problem. You  
22 were involved in a crime, and you are telling the police  
23 right there this is the man that attached you.

24 MR. ROSENBLATT: Here is what I'm getting at. In  
25 this case most of the evidence is going to come from one



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1 witness. One witness is going to tell you what happened to  
2 her.

3 MR. BANDELLI: Objection, Judge.

4 THE COURT: Sustained.

5 MR. ROSENBLATT: You are going to be asked in this  
6 case to determine the defendant's guilt or non-guilt based  
7 on primarily the testimony of one of the witnesses. If you  
8 only hear it from one witness in this case -- I put on one  
9 witness. After you hear from her I rest. That means I have  
10 no further witnesses. That's the only witness you hear  
11 from. Assume, Mr. Friedman, that that witness convinces you  
12 to your satisfaction beyond a reasonable doubt of all of the  
13 elements of the crimes that the judge is going to instruct  
14 you on. If the judge instructs you on the law, and you  
15 believe just one witness, what would your verdict be?

16 PROSPECTIVE JUROR: If I believe the witness,  
17 that's enough information for me. If it adheres to the law  
18 that --

19 MR. ROSENBLATT: So, what would your verdict be if  
20 that witness convinces you to your satisfaction?

21 PROSPECTIVE JUROR: Well, you are not telling me  
22 if the witness is reaching the guilty or the not guilty.

23 MR. ROSENBLATT: The witness -- okay. I  
24 understand what you are saying. If the witness convinces  
25 you, Mr. Marks, to your satisfaction and proves the

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1 defendant guilty, makes out all of the elements that the  
2 judge will eventually instruct you on, that witness is the  
3 witness that you hear from, what would your verdict be?

4 PROSPECTIVE JUROR: Guilty.

5 MR. ROSENBLATT: Anyone have a problem if I  
6 present to you one witness and I say, I rest. I'm done. I  
7 have no further witnesses, and that witness convinces you.  
8 Mr. Perez, would your verdict be guilty as well?

9 PROSPECTIVE JUROR: If enough evidence is provided  
10 to make that statement, then yes.

11 MR. ROSENBLATT: Okay. Anyone have a problem with  
12 that?

13 Miss Rudolph.

14 PROSPECTIVE JUROR: No.

15 MR. ROSENBLATT: Miss Polanco.

16 PROSPECTIVE JUROR: No.

17 MR. ROSENBLATT: Mr. Pereira.

18 PROSPECTIVE JUROR: No.

19 MR. ROSENBLATT: Miss Martinez, any problem?

20 PROSPECTIVE JUROR: No.

21 MR. ROSENBLATT: Now, the judge touched on it  
22 briefly when we talked about accounting. The judge is going  
23 to instruct you on the law at a later time. He touched on  
24 it briefly that reasonable doubt is not beyond a  
25 mathematical certainty. Okay?

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1 Miss McCarthy, did you ever have an occasion where  
2 you are out, and you see somebody that you may have seen --  
3 you see somebody that you may not have seen for a while.  
4 You go home, and you call up your soon to be husband and you  
5 say, You won't believe who I saw. I saw Mike and Jane, and  
6 your husband says, Well, I don't believe you. Do you have a  
7 photograph? I'm telling you, I saw Mike and Jane. They  
8 were on the street. They stopped. I spoke to them. He  
9 says, Did you take their bag and swab it for DNA to see if  
10 it matches. Would that make sense?

11 PROSPECTIVE JUROR: No.

12 MR. ROSENBLATT: My point is in a courtroom we  
13 don't take away our common sense, our life experiences and  
14 expect something different just because we are in a  
15 courtroom. You use your common sense and life experiences  
16 the same way you would do at home, at work in our everyday  
17 life.

18 Miss Rudolph, do you appreciate that?

19 PROSPECTIVE JUROR: Yes.

20 MR. ROSENBLATT: Would you have any elevated  
21 expectations because you are taken out of your everyday life  
22 and put in a courtroom?

23 PROSPECTIVE JUROR: What do you mean?

24 MR. ROSENBLATT: Would you expect scientific  
25 evidence if you wouldn't expect that in everyday life?

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1 PROSPECTIVE JUROR: No.

2 MR. ROSENBLATT: You can listen to testimony and  
3 make a determination based upon people and what they tell  
4 you, right?

5 PROSPECTIVE JUROR: Yes.

6 MR. ROSENBLATT: Miss Lackhan, would you agree  
7 that some adults lie?

8 PROSPECTIVE JUROR: Yes.

9 MR. ROSENBLATT: Would you agree with me than some  
10 children lie?

11 PROSPECTIVE JUROR: Yes.

12 MR. ROSENBLATT: And you would also agree that  
13 some adults tell the truth.

14 PROSPECTIVE JUROR: Yes.

15 MR. ROSENBLATT: And some children tell the truth,  
16 too, right?

17 PROSPECTIVE JUROR: Yes.

18 MR. ROSENBLATT: As a general statement, all  
19 children don't lie and all adults don't lie, right?

20 PROSPECTIVE JUROR: Right.

21 MR. ROSENBLATT: When you talk to your child at  
22 home, your 14 year old, you can make a determination based  
23 on what they are saying if it makes sense, right?

24 PROSPECTIVE JUROR: Yes.

25 MR. ROSENBLATT: Mr. Fishtein, did you ever talk

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1 to children? Do you have cousins, sisters, brothers?

2 PROSPECTIVE JUROR: Yeah. They are older though.

3 MR. ROSENBLATT: I'm sure at your work sometimes  
4 younger people come in. They want to buy school supplies.  
5 They ask you questions, right?

6 PROSPECTIVE JUROR: Yes.

7 MR. ROSENBLATT: In your everyday life, if you are  
8 talking to somebody who is younger than you, say a teenager,  
9 and they are telling you something about what happened, and  
10 you have to make a determination if they are telling you the  
11 truth, what are some of the things that you would do to see  
12 if what they are telling you makes sense?

13 PROSPECTIVE JUROR: Ask like more questions, I  
14 guess, and try to put two and two together.

15 MR. ROSENBLATT: What do you think about that,  
16 Miss Rudolph?

17 PROSPECTIVE JUROR: Same. I agree, yes.

18 MR. ROSENBLATT: How about if other evidence is  
19 consistent with that? If other people say things that  
20 corroborate that, would that be one of the factors that you  
21 would consider?

22 PROSPECTIVE JUROR: Yes.

23 MR. ROSENBLATT: Who reads the newspaper? Anyone  
24 like to read the sports section?

25 Mr. Falci.

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1 PROSPECTIVE JUROR: Yes.

2 MR. ROSENBLATT: Which paper do you read?

3 PROSPECTIVE JUROR: Daily News.

4 MR. ROSENBLATT: Mr. Marks.

5 PROSPECTIVE JUROR: Newsday once in a while.

6 MR. ROSENBLATT: Say you are reading about the  
7 Yankee game in the Daily News, and you are reading about it  
8 in Newsday, and say you both watched it the night before.  
9 The News reports the reason why the Yankees won is because  
10 A. Rod hit two home runs, and, Mr. Marks, the Newsday reads  
11 same replay of the game, and they say it was pitching.  
12 Without the pitching, the Yankees would have lost.

13 You both watched it, and you believe it was  
14 something else. You believe it was the defense. Jeter made  
15 a good play in the third inning. Whatever it was, you have  
16 two people, professionals at their job, writers, different  
17 views of the game. They both watched the game. Their  
18 analysis is different.

19 You also watched the game. Your analysis is  
20 different from the two of them. Three views of the game or  
21 four, and four potentially different versions of what  
22 happened. Does it mean any of you are lying?

23 MR. BANDELLI: Judge, he is doing a lot of  
24 hypotheticals, and I'm going to object. I thought it was to  
25 determine whether or not they can be fair and impartial

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1 jurors.

2 THE COURT: Well, he has another minute.

3 MR. BANDELLI: Okay.

4 THE COURT: All right. While he is reviewing the  
5 sports section.

6 MR. ROSENBLATT: Mr. Falci, does that mean that  
7 either one of you or the writers are lying?

8 PROSPECTIVE JUROR: No.

9 MR. ROSENBLATT: Mr. Marks.

10 PROSPECTIVE JUROR: No.

11 MR. ROSENBLATT: Would you agree that when you  
12 retell a story, when you retell an event that happened,  
13 whether it's a sports event, an event in your past,  
14 somebody's wedding, birthday party, when you retell it, you  
15 are not going to retell it the same every time. Fair to  
16 say?

17 MR. BANDELLI: Objection.

18 THE COURT: Overruled.

19 MR. ROSENBLATT: When a reporter is doing their  
20 analysis of the game, writing what they observed, what they  
21 saw, two professionals at their own job can report something  
22 different, correct?

23 Miss Martinez, does it mean either reporter is  
24 lying?

25 PROSPECTIVE JUROR: No.

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1 MR. ROSENBLATT: Or mistaken?

2 PROSPECTIVE JUROR: No.

3 MR. ROSENBLATT: It just means they had a  
4 different interpretation.

5 PROSPECTIVE JUROR: Different viewpoints.

6 MR. ROSENBLATT: Right.

7 Is there anything that I haven't covered or that  
8 either I or the judge asked about that at this point you  
9 think you need to bring to the Court's attention because,  
10 once I sit down and if Mr. Bandelli chooses to question you  
11 he sits down, this is the only time we get to speak to you.  
12 After today we don't get to speak until after the trial is  
13 over. Anything you need to bring to the Court's attention  
14 at this time?

15 PROSPECTIVE JUROR: Can I ask a question?

16 MR. ROSENBLATT: Sure.

17 PROSPECTIVE JUROR: Are we allowed to know the age  
18 of the child that he sexually assaulted?

19 THE COURT: We are not getting into the facts of  
20 the case.

21 Okay. Thank you, Mr. DA. You may sit down.

22 Mr. Bandelli.

23 MR. BANDELLI: Thank you, Judge.

24 Good morning, ladies and gentlemen. Is it still  
25 morning? Good morning, ladies and gentlemen.



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1           My name is Stanford Bandelli. I represent Harold  
2           Gopaul. This is kind of a tough process for everybody. You  
3           are all sitting here, with the exception of people who have  
4           done this before, and getting asked questions by people you  
5           don't know in an unfamiliar setting. It's personal stuff,  
6           and I just want to tell you there is a reason that we do  
7           this, and the reason what we do this is we want to make sure  
8           that whoever is selected, and it's an honor to be selected,  
9           whoever is selected is a person who is a good candidate to  
10          sit and make a decision, a fair and impartial decision, on  
11          the outcome of the case.

12                 I'm going to try to speak loud enough so everybody  
13          can hear me. As the judge said and ADA Rosenblatt said,  
14          there is a good chance many of you are going to be up here,  
15          also. You saw people coming in and out the whole time.  
16          Listen up. If something comes up while you are up here, you  
17          may want to cut it short and say, I have an issue with that,  
18          or I didn't understand that.

19                 I try not to ask personal questions, but you are  
20          going to be in an incredibly important position here. It's  
21          a huge responsibility. It's kind of obvious. All right?  
22          This is an extremely sensitive type of case. I'm not at  
23          liberty to discuss the facts now, but the judge told you the  
24          charges. They are sexual abuse charges. Okay? They  
25          involve a child and a stepfather, and you are going to have

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1 to make a decision at the end --

2 THE COURT: Mr. Bandelli, I told both of you not  
3 to go into the facts of the case.

4 MR. BANDELLI: I understand, but he brought that  
5 up. I can't just ignore that he brought it up, Judge. I  
6 won't go into the facts.

7 THE COURT: All right. I don't want to tell both  
8 of you again.

9 MR. BANDELLI: Understood.

10 The bottom line is you are going to have to make a  
11 decision at the end of this thing. You are going to have to  
12 make a determination based on what you believe in terms of  
13 who is telling the truth, who is not telling the truth, who  
14 has a motive to lie, who doesn't have a motive to lie, and  
15 you know that testimony is all going to come -- where is the  
16 witness box in this courtroom? It's all going to come from  
17 right here (indicating). You are going to be able to see  
18 the person as they testify. You are going to be able to  
19 look at their body language. Do they seem nervous because  
20 they are in this big courtroom with the judge sitting next  
21 to them and have a lawyer that's going to answer questions  
22 and try to make them look like they are lying, or do they  
23 seem nervous because maybe they are not telling the truth?

24 I can't tell you right now what is going to  
25 happen. I haven't had an opportunity to question any of

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1       these people yet, but I do intend to question them, and, as  
2       you know, one of the witnesses is a teenage girl.

3               MR. ROSENBLATT:  Objection.

4               THE COURT:  Mr. Bandelli.

5               MR. BANDELLI:  What?

6               THE COURT:  The last time.  Do not go into the  
7       facts of the case.  What don't you two understand?

8               MR. BANDELLI:  Well, Judge --

9               THE COURT:  Approach the bench.

10              (Side-bar discussion held off the record.)

11              MR. BANDELLI:  Getting back to what I was saying,  
12       I'm going to have to question the victim, and I'm going to  
13       have to question the victim hard.  Okay?  If any of you were  
14       sitting in my client's chair right there charged with these  
15       offenses --

16              MR. ROSENBLATT:  Objection.

17              THE COURT:  Read it back.

18              (Whereupon, the requested portion of the record  
19       was read back by the court reporter.)

20              THE COURT:  Overruled.  He can ask that one time.

21              MR. BANDELLI:  Thank you, Judge.

22              If any of you were sitting in that chair charged  
23       with these offenses, I would hope that you would want for me  
24       to question the victim hard.

25              Is there anybody sitting here who feels

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1 uncomfortable with the fact that I plan to mount an  
2 aggressive defense here? Does anybody feel uncomfortable  
3 with that?

4 Ma'am, I'm going to apologize for not knowing your  
5 name. I'm so busy paying attention to everything that's  
6 said and people moving in and out, but I'm more focussed on  
7 listening to what you say. Please, I apologize for not  
8 knowing your names now.

9 I see you looking down, ma'am. That gives me a  
10 message. That gives me a sign. I'm just wondering what you  
11 think.

12 PROSPECTIVE JUROR: I actually just have a  
13 headache.

14 MR. BANDELLI: I'm sorry.

15 There is nothing about my doing a  
16 cross-examination -- if it was you or a family member  
17 sitting there, you would want nothing less from me, right?

18 PROSPECTIVE JUROR: I want you to go as hard as  
19 you can.

20 MR. BANDELLI: Thank you.

21 Anybody feel differently than Miss Polanco?  
22 Anybody feel differently than Miss Polanco, that, you know,  
23 I just don't have the stomach for this. I can't sit here  
24 and listen to this attorney do this. This is horrible.  
25 This is upsetting. I just don't know.

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1 Miss Rudolph.

2 PROSPECTIVE JUROR: I'm not sure.

3 MR. BANDELLI: Good. Well --

4 PROSPECTIVE JUROR: I have an infant son. I'm a  
5 new mother, so I don't know.

6 MR. BANDELLI: Well, I appreciate that you are  
7 being honest with me. That's part of the reason we are  
8 doing this. To the extent that you withhold information,  
9 it's better to get it out now. God forbid you get picked  
10 and you decide, I can't do this.

11 Do you feel you might not be up to, you know,  
12 sitting on this --

13 PROSPECTIVE JUROR: I feel it's difficult for me.  
14 I'm a new mother.

15 MR. BANDELLI: Who is staying up with the four and  
16 a half month old at night if you are going to be on a jury?

17 PROSPECTIVE JUROR: Well, he is luckily sleeping  
18 through the night.

19 MR. BANDELLI: You are very lucky.

20 PROSPECTIVE JUROR: I only just went back to work  
21 on Thursday.

22 MR. BANDELLI: Congratulations.

23 PROSPECTIVE JUROR: Thank you.

24 MR. BANDELLI: Anybody else feel the same as  
25 Miss Rudolph, that they are not comfortable?

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1 THE COURT: Sustained.

2 Listen. Nobody is comfortable in a courtroom,  
3 okay? This is not a volunteer army here. You have an  
4 obligation to sit on these cases here. If somebody has a  
5 problem with the nature of the charges, and you all said you  
6 didn't, you can tell me that. Okay? That's why the  
7 attorney is not allowed to go into the facts of the case.  
8 We don't try the case during the voir dire. That comes out  
9 after the jurors are selected. Do you all understand that?

10 Otherwise, it wouldn't be fair to be trying a case  
11 during the voir dire. Okay? Anyone have a problem sitting  
12 on this case? Raise your hand right now. Okay. Thank you.

13 MR. BANDELLI: Thank you, Judge. Okay. One of  
14 the big issues in this case is going to be credibility. You  
15 are going to have to make a judgment call on who you  
16 believe. Do you believe the person that's telling you that  
17 X, Y, Z happened, do you not believe that person?

18 I know that both of you probably had an  
19 opportunity to gauge people's credibility because you sat on  
20 either grand juries or, you know, in a criminal matter on a  
21 jury case, and there were witnesses that were called up to  
22 the stand, and you had to sit there and listen to what they  
23 said and listen to all after the evidence and make a  
24 determination whether or not you believed them. Is that  
25 accurate? Is that right?

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1 PROSPECTIVE JUROR: Yes.

2 MR. BANDELLI: What were the factors? Mr. Pegram,  
3 what were the factors that you used to the evaluate the  
4 credibility of a witness?

5 PROSPECTIVE JUROR: Whether or not it was  
6 convincing when he told a story. Whether the answers  
7 corroborated with the other evidence. Listen to what he  
8 said. Mathematically what he said had to be true. Whether  
9 or not he was telling the truth.

10 MR. BANDELLI: So, what you did, you matched up  
11 what this witness said with other evidence in the case --

12 PROSPECTIVE JUROR: Of course.

13 MR. BANDELLI: -- that supported it.

14 PROSPECTIVE JUROR: Of course.

15 MR. BANDELLI: That's corroboration. That's one  
16 thing.

17 Mr. Ramos, I don't mean to make you nervous. I've  
18 got to get this right, okay? Tell me, what did you rely on?

19 PROSPECTIVE JUROR: Testimony of the witnesses and  
20 any evidence that was brought forward.

21 MR. BANDELLI: Okay. When you say the testimony  
22 of the witnesses, suppose the witness had said one thing on  
23 one particular date and then said something different on  
24 another particular date, whether or not they made an  
25 inconsistent statement or at some point changed their

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1 statement. Is that something that you might consider in  
2 terms of whether or not he was being truthful or not?

3 PROSPECTIVE JUROR: Yes, but you also have take  
4 the information from the other people that were brought into  
5 the area and what they have said to try and get all of the  
6 information.

7 MR. BANDELLI: Well, you know, what? I'm not done  
8 with the point I'm making right now, but you brought up  
9 something else. You said you would look at the information  
10 that other people were bringing to the table.

11 As the judge told everybody, later on the  
12 defendant has an absolute right not to testify. He can sit  
13 there the whole time, and I can sit there the whole time and  
14 we cannot say anything. You can't hold that against him.

15 The truth is it's a crazy concept. I think most  
16 people feel if you didn't do something, you would get up  
17 there and say, I didn't do it. It wasn't me. This is all  
18 wrong. That's common sense. Why wouldn't you get up there  
19 and say you didn't do it if you didn't do it?

20 Not in a court of law. Not in a court of law.  
21 Okay? The bottom line is he has an absolute constitutional  
22 right to sit there. Okay? And I need to know, because you  
23 said that you would want to listen to what other people say,  
24 if my client doesn't testify in this case, are you going to  
25 hold that against him?